# VETO MESSAGES

OF

HON. RICHARD J. HUGHES

*Governor of New Jersey*




**SUBMITTED TO THE SENATE AND THE GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY**

1964

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1964

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* No Assembly Action was subject to Pocket Veto.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 13, 1964.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 138

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Committee Substitute for Assembly Bill No. 138, with my objections, for reconsideration.

Assembly Committee Substitute for Assembly Bill No. 138 would provide that the New Jersey Commission on Interstate Co-operation "shall annually name a delegate as a member of the Board of Managers of the Council of State Governments for this State, who shall serve for the legislative year in which he is elected and until his successor shall be chosen and shall qualify." In view of the commission's statutory mandate "to carry forward the participation of this State as a member of the Council of State Governments," I agree that an implementary measure of this type should be enacted. At the same time, however, I feel that the legislative purpose is susceptible to a somewhat more coherent expression than is accomplished by the language of this bill.

I refer particularly to the provision that the chosen delegate "shall serve for the legislative year in which he is elected." At first blush, this might be read to limit eligibility for the honor to those members of the commission who hold elective office, i.e., the five members of each House of the Legislature who serve on the commission by virtue of their appointments to the standing committee on interstate co-operation of that House. Such an interpretation would render ineligible for the position of delegate the five non-elected State officials who also serve on the commission, and from among whom the chairman of the commission must by law be designated. Further reflection, however, indicates that this cannot possibly be the meaning of the bill since no member of the Legislature is ordinarily elected to that body for the single legislative year to which the measure

refers. The word "elected", then, presumably pertains to the process whereby the commission itself designates from among its entire membership the member who shall serve as its delegate.

This being so, it would appear that the establishment of "the legislative year" as a term of service is not intended to exclude the non-legislative members of the commission from consideration. It seems designed to acknowledge the fact that the advent of each legislative year may bring about a turnover in the commission's membership. (As mentioned above, the 10 legislative members owe their *ex officio* commissions to membership on the standing committees on interstate co-operation of the Houses of the Legislature which they respectively represent. Under the rules of both the Senate and the General Assembly, such committee assignments usually expire at the end of each legislative year.) Such conclusions are based more upon intuitive reasoning rather than the actual wording of the bill. There should be no need, however, to engage in the type of analysis set forth above in order to arrive at the legislative purpose when that purpose can be made self-evident on the face of the bill. I am, therefore, suggesting several changes to clarify the language of the bill. Additionally, since it would further the interests of continuity to provide that the chairman of the commission shall act as the commission's delegate whenever no regularly appointed delegate is available for service, I have recommended the insertion of such a provision.

Accordingly, I am returning Assembly Committee Substitute for Assembly Bill No. 138 for reconsideration, with the recommendation that it be amended as follows:

On page 1, section 1, line 10, delete "name" and insert in lieu thereof "appoint, from among its entire membership,".

On page 1, section 1, line 12, delete "elected" and insert in lieu thereof "appointed as a delegate".

On page 1, section 1, line 13, delete "chosen" and insert in lieu thereof "appointed".

On page 1, section 1, line 13, after "qualify." insert the following sentence: "Whenever the commission shall fail to so appoint a delegate, or the duly appointed delegate becomes unavailable or unable to serve for

any reason whatever, the chairman of the commission shall serve as the delegate until such time as a delegate has been appointed and has qualified."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 20, 1964.

ASSEMBLY BILL No. 147

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 147, with my objections, for reconsideration.

The Mechanics' Lien Law now provides that a claimant who "improperly refuses or neglects" to file a certificate to discharge a mechanic's notice of intention after his claim has been satisfied or abandoned may be ordered to pay the costs and reasonable attorney's fees incurred by any proper party in a proceeding instituted to have such notice discharged. Assembly Bill No. 147 would amend the law to additionally specify that if the satisfied claimant "improperly refused to honor a written request to file such certificate after a demand therefor, served upon the claimant 15 or more days after the satisfaction of the claim and 10 or more days prior to the application to the court for an order to discharge the notice, the court may assess additional costs against the claimant and in favor of the applicant in [sic] amount of $50.00." In other words, the bill would authorize the imposition of a penalty in aggravated instances of failure to comply with the filing requirement.

While I have no objection to the substance of this measure, it seems doubtful whether the term "improperly" con-

stitutes an adequate characterization of the contumacious attitude which the bill apparently is designed to penalize. From a semantic point of view, a failure to comply with the law can be "improper" without amounting to the type of conduct which warrants legal punishment. No penalty, however slight, should be lightly imposed. The courts have long construed penal statutes strictly, and might well interpret the language of this bill to connote a willful failure to discharge a known obligation. See *Frank Rizzo, Inc. v. Alatsas*, 27 N. J. 400, 405 (1958). In order to be certain that this meaning is placed upon the bill, in accordance with our traditional abhorrence of civil penalties except in richly deserved cases, I would suggest the imposition of a penal assessment where the claimant "willfully refused", rather than "improperly refused", to honor the request for compliance with the law.

Accordingly, I am returning Assembly Bill No. 147 for reconsideration, with the recommendation that it be amended as follows:

On page 2, section 1, line 30, delete "improperly" and insert in lieu thereof "willfully".

On page 2, section 1, line 34A after "in" insert "the".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 389

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 389, with my objections, for reconsideration.

The Banking Act of 1948 now specifies that the annual meeting of the stockholders of every state bank shall be held on such day in January of each year as the by-laws shall provide or, in the absence of a governing by-law, on the fourth Tuesday in January of each year. Assembly Bill No. 389, by deleting the mandatory January date from this law, would permit each bank to hold its annual stockholders' meeting on any day of the calendar year fixed by its by-laws.

I have been informed by the Department of Banking and Insurance that the existing requirement of January meetings is highly desirable from an administrative standpoint. Under the Banking Act, bank directors are elected at annual meetings and must subscribe to formal oaths of office within 30 days after election. These oaths must be filed with the Department, which is charged with the duty of supervising their timely and proper execution. By virtue of the uniform January meeting provision of the act, the oaths of all elected bank officers are filed with the Department within the same 30-day period. Such concentration of filing makes for an efficient and relatively uncomplicated system of recording and supervision.

Assembly Bill No. 389, in eliminating the uniform January date, manifestly would compound the administrative burden by requiring the Department to keep a continuing record and to maintain constant supervision of directors' oaths throughout the year. Moreover, widespread inquiry among the banking community has failed to indicate that the bill would serve any useful banking purpose to offset the administrative hardship to the Department. While it may be inconvenient for some bank stockholders to attend meetings during the winter months, such peripheral considerations must bow to the greater public interest in the orderly and efficient administration of the Department of Banking and Insurance.

Thus there is no valid reason for granting blanket permission to state banks to hold their annual meetings in months other than January. I am advised, however, that some state banks have recently become subject by law to the registration provisions of the several federal Securities Exchange Acts, and that the requirements thereof will render it impracticable for these banks to hold their annual meetings earlier than April. In order to accommodate the real need which has been demonstrated in the case of the relatively few banks affected by this new development, I

suggest that the bill be amended to permit such banks to hold annual meetings on the fourth Tuesday in April, while preserving the January meeting requirement as to all other banks.

Accordingly, I am returning Assembly Bill No. 389 for reconsideration, with the recommendation that it be amended as follows:

On page 1, section 1, line 4, delete "The" and insert in lieu thereof "Except as otherwise provided in this section, the".

On page 1, section 1, line 5, after the word "day" insert "in January".

On page 1, section 1, line 6, after "January." insert the following sentence:

"A bank which is required to comply with the Securities Exchange Act of 1934, as amended, or with the Securities Act of 1933, as amended, and with the regulations promulgated under the authority of the said acts by the Board of Governors of the Federal Reserve System or the Federal Deposit Insurance Corporation, or any agency or officer succeeding to their powers, may, pursuant to resolution of its board of directors, and notwithstanding any by-law provision governing the date of the annual meeting, hold its annual meeting on the fourth Tuesday in April, provided that written notice of its intention to hold such meeting in April is given to the Commissioner not later than the last day of January next preceding such meeting."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
June 22, 1964.

ASSEMBLY BILL No. 404

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 404, with my objections, for reconsideration.

This bill would change one of the alternative bases for the apportionment of amounts to be raised by constituent school districts of a regional school district. School district costs can now be apportioned on the basis of average daily enrollment. Assembly Bill No. 404 would change it to the "number of pupils enrolled on the last school day of September of the current school year," thereby taking into account any increase in the number of school children a district might have on an immediate basis rather than having this reflected in the apportionment for the following year. This appears to be an equitable method of apportioning regional school costs. Assembly Bill No. 404, however, would amend a section recently changed by Chapter 106, P. L. 1964.

In order to avoid any question of an implied repeal of the changes made by Chapter 106, I suggest Assembly Bill No. 404 be amended to insert in section 4 thereof the language added by said chapter.

Accordingly, I herewith return Assembly Bill No. 404 for reconsideration and recommend that it be amended as follows:

On page 8, section 4, line 4, after the word "municipalities" add the following ", or the boards of education of 2 or more school districts,".

On page 8, section 4, line 6, after the words "for such school district" add the following "or districts".

On page 8, section 4, line 7, after the words "school district" add "or districts".

On page 8, section 4, line 13, after the words "board of education" add "or each such board".

On page 8, section 4, line 22, after the words "municipalities in the" add "regional".

On page 8, section 4, line 23, after the word "district" add "would be created".

On page 9, section 4, line 34, after the words "school district" add "or each of such school districts".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 446

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 446, with my objections, for reconsideration.

Assembly Bill No. 446 would amend P. L. 1960, c. 32 to allow an admitted insurer to write any insurance coverage declared eligible for export by the Commissioner of the Department of Banking and Insurance through any licensed New Jersey agent as well as through any surplus lines agent as is now required by the Surplus Lines Insurance Law. Insurance written under this provision by an admitted insurer would be subject to the tax on premiums to which all insurance written by admitted insurers is subject rather than to the tax imposed upon premiums for insurance written pursuant to the Surplus Lines Insurance Law.

Insurance declared eligible for export are coverages found by the Commissioner to be difficult to place due to the unusual risks involved. Such coverages may be placed pursuant to the Surplus Lines Insurance Law with an unlicensed insurer without regard to rate filings. An admitted insurer must make placements of such insurance through a surplus lines agent.

Surplus lines agents are licensed by this State and are particularly skilled in the placement of such insurance. There are now approximately 70 agents so licensed. Because of this relatively small number, the Department of Banking and Insurance can readily supervise coverages written under the present law.

If admitted insurers are permitted to place insurance classified as eligible for export directly through any licensed insurance agent, this highly specialized area would be thrown open to the large number of general agents, most of whom are untrained in the workings of the Surplus Lines Insurance Law. This would place upon the Department of Banking and Insurance a considerably greater supervisory burden without any apparent benefit to the general public. The Department is further concerned that such a weakening of control over surplus lines insurance would tend to reduce its effectiveness in other areas of insurance regulation where rate filings are now required. For these reasons, I feel it is inadvisable to approve this change in the Surplus Lines Insurance Law.

A great number of admitted insurers now utilize electronic equipment and, therefore, find it difficult to separate the insurance coverage written under this provision in order to pay the 3% tax imposed by the Surplus Lines Insurance Law. The loss of revenue which would result from allowing coverages written under this provision to be taxed at the 2% rate imposed on other premiums received by such admitted insurers is estimated by the Department of Banking and Insurance to be minimal. Since the revenue implications of such a change are so limited, it would seem reasonable to permit premiums received pursuant to this surplus lines provision to be taxed at the same rate as the other premiums.

Accordingly I herewith return Assembly Bill No. 446 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 5, after the word "agent" delete "or any licensed New Jersey agent".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 545

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I herewith return Assembly Bill No. 545, with my objections, for reconsideration.

This bill requests the Governor to issue annually an appropriate proclamation designating the period of July 1 through July 7 of each year as American Flag Week, and calling upon the citizens of this State to display the flag of the United States on those days.

In selecting the week of Independence Day, the sponsors of Assembly Bill No. 545 undoubtedly were motivated by the understandable wish to concelebrate American Flag Week with the holiday commemorating the birth of our Nation.

However, June 14th traditionally is set aside as National Flag Day. It was on that date in 1777 that the first flag of the United States was adopted by congressional resolution. It has been suggested that the establishment of the first week of July as American Flag Week would conflict with the national observance of Flag Day. To avoid any possible conflict, the bill should be amended to change the period designated as American Flag Week to June 7 through June 14, thereby making it coincident with National Flag Day.

Accordingly, I herewith return Assembly Bill No. 545 for reconsideration and recommend that it be amended as follows:

On page 1, title, line 1, delete "July 1 through July 7" and insert in lieu thereof "June 7 through June 14".

On page 2, section 1, lines 2 and 3, delete "July 1 through July 7" and insert in lieu thereof "June 7 through June 14".

Respectfully,

RICHARD J. HUGHES,
*Governor.*

[SEAL]
Attest:

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 547

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 547 with my objections, for reconsideration.

This bill would validate any deed or conveyance of real estate, and any deed of correction thereof, executed and delivered by a substituted administrator, which has been recorded for at least 10 years prior to the effective date of the bill, notwithstanding that the deeds were not executed and delivered pursuant to court order or consent.

I have been informed by the proponents of the bill that it is intended to correct a procedural defect caused by the failure of a particular substituted administrator to submit certain conveyances to either the prerogative court or the orphans' court for approval, as was then required by law. R. S. 3:17–14 (repealed in 1952). Except for this omission, the conveyances were valid and in compliance with the substantive directions and authorizations contained in the decedent's will.

The bill as drawn, however, is not limited to the validation of procedural errors. It would in fact validate instruments executed and delivered by substituted administrators even though the instrument might have defects of a substantive nature such as failure to follow testamentary instructions. A validating act of such broad scope would be undesirable and unnecessary.

Accordingly, I herewith return Assembly Bill No. 547 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, lines 8 through 10, delete "such deed or conveyance and the deed of correction were not executed and delivered pursuant to court order or consent" and insert in lieu thereof "the terms of sale of such real estate were not submitted to, and approved

by, the former prerogative court or the former orphans' court of the county wherein the real estate lies''.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 561

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 561, with my objections, for reconsideration.

Assembly Bill No. 561 would create a new program of State aid to counties and municipalities for repairing the damage to municipal and county roads caused by vehicles of a gross weight and load of 40,000 pounds or more bearing ''constructor'' registration plates. The bill provides that the State may pay up to 90% of the total cost of the repairs of such damage. No provision is made, however, for any appropriation to meet the cost of this program.

As I have often indicated on past occasions, I do not favor fiscal legislation which fails to pay its way by appropriating the necessary funds. Such legislation ordinarily has no effect other than to engender expectations which may be incapable of fruition, and to create pressures for further action which may be incapable of satisfaction. State funds are not now available to accomplish the objectives of Assembly Bill No. 561. The affected counties and municipalities should clearly understand that this aid program can have no real meaning to them unless and until the Legislature unearths a new source of revenue from which a suitable appropriation can be made.

At the same time I recognize that this bill at least would establish the machinery for the implementation of a worthwhile project, provided that the Legislature undertakes to breathe life into the program by finding and appropriating the money for its effectuation. The sponsors of the bill have assured me that the Legislature seriously intends to fulfill this responsibility in the near future.

In its present form, however, Assembly Bill No. 561 presents serious administrative problems, generally pertaining to (1) the difficulty of estimating the amount of harm done to a given road by constructor vehicles, and (2) the degree of control to be exercised by the State Highway Commissioner over the entire aid program. With the cooperation of the sponsors, the proposed amendments set forth below have been developed to meet these problems.

Accordingly, I herewith return Assembly Bill No. 561 for reconsideration and recommend that it be amended as follows:

On page 1, Title, line 2, delete "repairing damage to" and insert in lieu thereof "reconstructing".

On page 1, Title, line 2, delete "caused by" and insert in lieu thereof "destroyed by reason of".

On page 1, Title, line 4, delete "license" and insert in lieu thereof "registration".

On page 1, section 1, lines 2 and 3, delete ", or reimbursing the various counties or municipalities for,".

On page 1, section 1, line 3, delete "repairing damage to" and insert in lieu thereof "reconstructing".

On page 1, section 1, line 4, after "roads" insert "destroyed".

On page 1, section 1, line 6, delete "licenses" and insert in lieu thereof "registration plates".

On page 1, section 1, line 10, delete "repair" and insert in lieu thereof "reconstruction".

On page 1, section 2, line 2, delete "damage" and insert in lieu thereof "destruction".

On page 2, section 3, line 1, after "of" insert "and photographs depicting".

On page 2, section 3, line 1, delete "damage" and insert in lieu thereof "destruction".

On page 2, section 3, line 3, delete "repair of the damage to" and insert in lieu thereof "reconstruction of".

On page 2, section 3, lines 3 and 4, delete "or in accordance with which such damage was repaired,".

On page 2, section 5, line 4, delete "repair" and insert in lieu thereof "reconstruction".

On page 2, section 6, lines 3 and 4, delete "or, if already performed, shall be approved by him".

On page 3, section 7, line 5, delete "repairs" and insert in lieu thereof "reconstruction".

On page 3, section 7, line 8, delete "N. J. S. 40A:2–46" and insert in lieu thereof "N. J. S. 40A:4–46".

On page 3, section 7, line 10, at the end of section 7, insert the following new section:

"8. The State Highway Commissioner is hereby empowered and authorized to adopt such rules and regulations as shall be necessary to implement the provisions of this act."

On page 3, section 8, line 1, delete "8." and insert in lieu thereof "9."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 11, 1964.

ASSEMBLY BILL No. 586

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 586, with my objections, for reconsideration.

Assembly Bill No. 586 would provide that the existing definition of the term "lottery", as used in our criminal statutes, henceforth shall not pertain "to the distribution of prizes by chance as a gift where admission to the class of donees is based upon the purchase of merchandise or other thing of value at a price which is reasonably related to the true value" thereof. The bill's statement indicates that its primary purpose is to legalize certain advertising and merchandising programs generically known as box-top contests. The statement additionally notes that the measure is also designed to authorize door prize distributions at events to which admission is charged. The broad language of the bill itself, however, makes no concrete reference to these or any other particular objectives.

On March 6, 1964, I filed an identical measure, Assembly No. 741 (1963), in the State Library without my approval. I did so not because I disapprove of the box-top contests which the bill was principally intended to sanction, but because the wording of the bill was so broad it engendered serious constitutional problems. Since Assembly No. 741 was passed by the Legislature on the last working day of the 1963 session, it was not possible to develop and offer suitable amendments. I hope that my prompt action on this bill will give to the Legislature at this time sufficient opportunity to consider the changes I recommend.

In 1947, the citizens of New Jersey adopted a new Constitution which provided that "no gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof" have been heretofore or are hereafter authorized by direct vote of the people, Art. IV, Sec. VII, para. 2. At that time, the form of gambling known as the lottery, traditionally involving the

distribution of prizes according to chance among a group of persons who furnished a consideration for their eligibility to participate therein, long had been outlawed by statute and by the Constitution of 1844. Among the types of lotteries consistently recognized and condemned as such by the courts were the promotional devices whereby the purchase of merchandise or a ticket of admission to a theatrical event qualified the customer or patron as a contestant for prizes to be awarded by lot. Such lotteries, therefore, undoubtedly constituted "gambling" within the meaning of the 1947 constitutional proscription against "gambling of any kind" unless approved by the voters at a general election.

For these reasons, it is not appropriate for the Legislature and the Governor to broadly legalize contests based "upon the purchase of merchandise or other thing of value", as is proposed by Assembly Bill No. 586, without submitting such a proposal to the will of the people in accordance with the plain mandate of the Constitution. This is too sensitive and dangerous an area to admit of such abstractly worded legislation. Additionally, the bill's breadth of language, in conferring blanket approval upon door prize distributions, might undo by legislation the restrictions and controls imposed by the people upon bingo and raffles when they amended the Constitution by referendum in 1953 to permit those activities in certain instances under tightly specified conditions.

The sponsors and proponents have indicated, however, on the floor of the Legislature and to the press that they are primarily if not solely interested in the box-top feature of this legislation. A specific limitation of the scope of the bill to box-top contests would remove many of the constitutional difficulties inherent in a general and abstract authorization of prize contests without the approval of the electorate. Such a limitation would also meet my objection to the inclusion of the very different subject of door prize distributions in the same bill with box-top contests. In view of the professed desire of the Legislature and the public to attain legality for box-top contests in particular, I am recommending amendments to limit the application of this bill only to box-top contests.

It should be observed, however, that even the amendment I propose will not dispel all doubt as to the constitutionality of the bill. There is a divergence of respected legal opinion

as to whether box-top contests constitute a form of gambling within the import of the constitutional ban so as to require the direct approval of our citizens. But box-top contests, as I know them, are innocuous, recreational activities which do not partake of the social evils inherent in the virulent types of gambling which the constitutional prohibition brings immediately to mind. Such contests could be characterized as gambling events only in the most technical and legalistic sense, if at all. This is clearly an instance in which constitutional doubts should be resolved in favor of the bill.

In addition, I recommend the elimination of that portion of the statutory definition which renders "an actual inconvenience", not requiring the expenditure of money, sufficient "consideration" to characterize a contest as an illegal lottery. It would be anomalous to sanction box-top contests which may involve the expenditure of money to purchase the sponsor's products, while continuing to outlaw contests requiring no more of the participants than an "actual inconvenience" such as attendance at a store to deposit an entry blank. See *Memorandum Opinion of the Attorney General* (December 12, 1961). Since such a deletion will render superfluous the circuitous and largely meaningless proviso that "[t]his definition shall not pertain to a distribution of prizes by chance when there is an intent to distribute prizes as a gift where the class of donees performs acts not exceeding those necessary to become a member of the class of donees or to receive the gift", this language should also be deleted.

Accordingly, I herewith return Assembly Bill No. 586 for reconsideration, with the recommendation that the bill be amended as follows:

On page 1, section 1, line 4, delete "which may be".

On page 1, section 1, line 5, delete "or in the form of an actual inconvenience".

On page 1, section 1, lines 6 through 13, inclusive, delete these lines in their entirety and insert in lieu thereof:

"Consideration shall not be deemed to exist with respect to a distribution of prizes by chance in a contest where admission to the class of distributees is based upon the submission of a box top, package, label, coupon

or other similar article connected with merchandise produced or sold by the sponsor of the contest in the regular course of business, provided that the sales price of said merchandise does not include any direct or indirect charge to the purchaser for the right to participate in such contest."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
June 22, 1964.

ASSEMBLY BILL No. 618

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 618, with my objections, for reconsideration.

This bill would amend the State Competitive Scholarship Act to extend the period of eligibility to cover students enrolled in courses of undergraduate study regularly requiring more than 4 academic years for completion.

The present 4-year limit is based upon the fact that the ordinary undergraduate program consists of 4 years of study. Gradually, many undergraduate schedules have been extended to cover a 5-year period. For example, pharmacy and certain fields of engineering are now 5-year programs. The proposal to cover the entire period of undergraduate study appears to be both equitable and consistent with the intent of our scholarship program. I am, therefore, in complete agreement with the intent of this amendment. The Department of Education, however, has informed me that the particular language employed in Assembly Bill No. 618 may not carry out the full intent of this proposal but will probably cause unnecessary administrative problems.

The bill restricts the extended scholarship awards to those students who enroll initially in a program the duration of which exceeds 4 years. This would result in the elimination from such extended awards the many students who do not elect a 5-year program until after the completion of one or more years of college. It would also require the scholarship commission to make a determination of a student's intention to undertake an extended program at the point in time at which he is initially enrolled in college. This would necessitate a periodic review by the commission in order to determine that the student remains enrolled in the extended program of instruction. Such a cumbersome administrative procedure does not seem necessary or useful.

These problems can be avoided if the act is amended to permit any person enrolled in an undergraduate course requiring 5 academic years to hold his scholarship for the length of time regularly required for the completion of the course.

Accordingly, I herewith return Assembly Bill No. 618 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, lines 4 through 8 delete said lines in their entirety and insert in lieu thereof, "except that in the case of a scholarship holder who is enrolled in a course of undergraduate study required by the institute to cover 5 academic years, the period of the scholarship shall".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 643

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I herewith return Assembly Bill No. 643, with my objections, for reconsideration.

Assembly Bill No. 643 would exclude "nonconventional type motor vehicles"—vehicles designed or used primarily for purposes other than highway transportation—from the provisions of the motor vehicle law which govern the transfer of title to motor vehicles and the perfection of security interests therein. As a result, transactions involving vehicles designated as "nonconventional" would no longer be recorded by the Division of Motor Vehicles, and security interests in such vehicles would be perfected in the manner specified by the Uniform Commercial Code with respect to ordinary personal property. The bill enumerates various categories of "nonconventional type" vehicles, and also empowers the Director of the Division of Motor Vehicles "to determine whether or not a particular vehicle is of the nonconventional type."

In concept, this measure has the desirable objective of freeing both the general public and the Division of Motor Vehicles from the burdens of compliance with the Motor Vehicle Certificate of Ownership Law where the property to be transferred is not actually a "motor vehicle" except in the most technical sense of that term. However, my attention has been directed to certain objections to the bill as presently drawn.

Many banks and mobile home dealers have strenuously opposed the inclusion of mobile homes among the categories of "nonconventional type motor vehicles" established by the bill, on the ground that the Certificate of Ownership Law provides more effective protection of security interests in such vehicles than would the Uniform Commercial Code. It has also been suggested that the categories in general might be more clearly delineated, and that the limitations on the Director's power to determine what vehicles are "nonconventional" should be clarified. The Division of Motor Vehicles has also requested an amendment of the bill's definition of "inventory held for sale", in order to eliminate any possible confusion as to the respective permissible activities of new and used motor vehicle dealers. Finally, it has been recommended that the operative date of the bill be deferred for a reasonable period of time after its enactment, in order to give affected parties an opportunity to adjust to its provisions.

With the full cooperation of the sponsor, the interested private parties and the Division of Motor Vehicles, amendments have been developed to meet the objections and

reservations outlined above. Accordingly, I herewith return Assembly Bill No. 643 for reconsideration and with the recommendation that it be amended in the following respects:

On page 2, section 1, lines 21 through 30, delete these lines in their entirety and insert in lieu thereof: "ditch-digging apparatus, well-boring apparatus, road and general purpose construction and maintenance machinery, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, power shovels, drag lines, self-propelled cranes, earth-moving equipment, trailers and semi-trailers which weigh less than 2,500 pounds, except that no mobile home or travel trailer shall be classified as a nonconventional type motor vehicle, motorized wheel chairs, motorized lawn mowers, bogies, farm equipment, whether or not motorized, including farm tractors, industrial tractors, motor bicycles, scooters, go-carts, gas buggies and golf carts. The Director of the Division of Motor Vehicles shall have power to make, amend and repeal regulations, not inconsistent with the provisions of this paragraph, prescribing what further vehicles or types of vehicles, not specified in this paragraph, shall be included in the category of nonconventional type motor vehicles."

On page 2, section 1, line 30c, before the word "by" insert "used motor vehicles held for the purpose of sale".

On page 4, section 3, line 1, delete the word "immediately" and insert in lieu thereof "on the 30th day next following the date of its enactment".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 657

*To the General Assembly:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 657, with my objections, for reconsideration.

I have been advised that this bill was introduced in order to permit county boards of chosen freeholders to maintain, improve, or repair any existing street, road, viaduct, bridge or parkway not shown on the official county map as long as the acquisition of additional land is not involved. The measure as drafted, however, fails to meet that objective. Repairs, maintenance and improvements to existing roads within the county jurisdictional limits are, by virtue of the proposed amendatory language, still confined to roads depicted upon the official map.

Accordingly, I herewith return Assembly Bill No. 657 for reconsideration and recommend that it be amended as follows:

On page 2, section 1, line 40, after the word "parkway" insert "not".

Respectfully,

RICHARD J. HUGHES,
*Governor.*

[SEAL]
Attest:

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 13, 1964.

SENATE BILL No. 15

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 15, with my objections, for reconsideration.

Senate Bill No. 15 would amend and supplement the New Jersey Turnpike Act in four significant respects.

First, it would permit the Governor of the State, in a period of ten days following the delivery of the minutes of any Turnpike Authority meeting, to veto any action taken by the Authority at such a meeting. Second, it would require the Authority to obtain the approval of the Governor and of either or both the State Treasurer and the Comptroller of the Treasury before it could issue or refund bonds or fix, revise or adjust tolls. Third, it would provide for continuing the New Jersey Turnpike as a toll road after its indebtedness has been paid off and would further provide for the payment of excess revenues to the State. Lastly, it would require, at the time that all Authority indebtedness has been paid off, the dissolution of the Turnpike Authority as an entity and the transfer of all of the Authority's functions, powers and duties, as well as its personnel, records and property, to the State Highway Department.

I am in accord with the first three changes contemplated by this bill. It has always been my understanding that the people responsible for the construction of this magnificent roadway fully expected to see it continue as a toll facility even after the liquidation of its indebtedness. As recent as last October, the first members of the New Jersey Turnpike Authority issued a statement re-affirming their "belief that the Turnpike revenues, through continuation of tolls, should be utilized in the best interest of the people of New Jersey who created this great asset."

The New Jersey Turnpike represents a major fiscal asset of the State. Its potential earning capacity can and should

be turned to the benefit of our citizens. By preserving it as a revenue producing facility, we will guarantee that the considerable expense of maintaining and operating this roadway as a super highway will not fall upon the taxpayer but upon the motorists who use it, while insuring to the citizens of this State the additional advantages of its earning capacity which would otherwise be lost.

I further agree with the Legislature that we should act this year to guarantee the continuation of the Turnpike as a toll facility. Unless the present law is changed, when the Turnpike becomes debt free, it will be necessary for the then Governor and Legislature to act in harmony together to guarantee the preservation of the toll revenues. Undoubtedly, at that point in time there will be pressures from special interest groups which will be directed to the freeing of this great facility. Since the passage of such legislation would require the concurrence of both Houses and the Governor, it is possible that these special interest groups might be capable of constructing a coalition to block such legislation even though they do not represent the will of the majority. Such a result can be guarded against through prompt action now. In this regard, I should point out that the fact that legislation is enacted this year to provide for the continuation of tolls upon the Turnpike would in no way preclude any succeeding Governor and Legislature from undoing this action if that be their decision. This legislative act will guarantee, however, that the Turnpike will remain a toll facility unless the people themselves, through their duly elected representatives, dictate otherwise.

The reasons which have compelled me to support these other facets of Senate Bill No. 15, however, do not pertain to the provisions which require that the Turnpike Authority be dissolved when it has liquidated its indebtedness and that the responsibility for maintaining and operating this facility be transferred to the State Highway Department. It is possible that such action may in fact be deemed desirable at the time the Turnpike is debt free. I can see no compelling reason, however, for making such a decision now. Much can happen between now and that date. Alternative proposals for operating the Turnpike may be developed. Indeed the Legislature itself now has under study proposals which contemplate action contrary to that provided by this bill. Only two months ago, this Legislature adopted a concurrent resolution creating a joint legislative

commission with the responsibility of studying the legality and practicability of consolidating the Turnpike and Highway Authorities. The report of this commission is not yet available.

I can find no valid reason why this Legislature and this Governor should attempt to anticipate what the situation will be some years from now in regard to the operation of this facility. Certainly, the pressures which might be focused upon the appropriate officials in regard to the administration of this facility would hardly be comparable to those which would be generated in regard to the decision to continue tolls. There would appear to be no danger in leaving this decision to those who will be in office at the time that the Turnpike becomes debt free.

I am, therefore, returning this bill for reconsideration, with the recommendation that it be amended as follows:

On page 1, Title, line 1, delete "to amend and supplement" and insert in lieu thereof "regulating and concerning the powers, duties and revenues of the New Jersey Turnpike Authority, amending".

On page 1, Title, lines 2 to 5, delete "; providing for the ultimate transfer of certain of the functions, powers and duties of the New Jersey Turnpike Authority to the State Highway Department and for the ultimate abolition of the New Jersey Turnpike Authority; repealing", and insert in lieu thereof "and amending".

On page 1, Title, line 6, delete ", and providing for an appropriation" and insert in lieu thereof "approved June 4, 1963 (P. L. 1963, c. 76)".

On pages 1 and 2, section 1, lines 1 through 28, delete section 1 in its entirety and insert in lieu thereof:

"1. Section 9 of Chapter 454 of the Laws of 1948 is amended to read as follows:

"9. Revenues. (A) The authority is hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike 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, or for any

other purpose except for tracks for railroad or railway use, 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; and provided further, that no contract shall be required, and no rent, fee or other charge of any kind shall be imposed for the use and occupation of any turnpike project for the installation, construction, use, operation, maintenance, repair, renewal, relocation or removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or other equipment or appliances in, on, along, over or under any such turnpike project by any public utility as defined in section 27:7–1 of the Revised Statutes which is subject to taxation pursuant to either chapter 4 of the laws of 1940, as amended (R. S. §§ 54:31–15.14 et seq.), or chapter 5 of the laws of 1940, as amended (R. S. §§ 54:31–45 et seq.), or pursuant to any other law imposing a tax for the privilege of using the public streets, highways, roads or other public places in this State. 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[, and thereafter, to the extent consistent therewith, as to produce revenues in amount sufficient to provide for the payment of principal and interest of any indebtedness existing from time to time under and pursuant to the provisions of the 'New Jersey Public Roads and Highways Bond Act of 1963' and the 'New Jersey Public Building Construction Bond Act of 1963.']. 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) At any time that tolls are not required for the purpose of carrying out and performing the terms and provisions of any contract with or for the benefit of bondholders, the authority shall cause tolls for the use of the turnpike projects to be charged and collected at the same rates as were last charged and collected by the authority under the provisions of subsection (A) hereof*

*and no change or revision shall be made in such rates except as shall be specifically authorized by law.*

"[(B)] *(C)* All revenues and other funds of the authority not pledged or otherwise required to pay or secure the payment of principal and interest of any indebtedness of the authority existing from time to time under, and not otherwise required for the purpose of, this act shall be [held and applied, in accordance with the provisions of section 10 hereof, for the purpose of paying principal and interest of any indebtedness existing from time to time under and pursuant to the provisions of the 'New Jersey Public Roads and Highways Bond Act of 1963' and the 'New Jersey Public Building Construction Bond Act of 1963.'] *deposited to the credit of the State in such depositories and shall be reported to the State Treasurer and to the Director of the Division of Budget and Accounting at such times and in such manner as shall be designated and prescribed by the State Treasurer and said director.*"

On page 2, section 2, line 15, delete "State Highway Department" and insert in lieu thereof "authority".

On pages 3 and 4, sections 3 through 11, delete sections 3 through 11 inclusive in their entirety and insert in lieu thereof:

"3. Section 4 of chapter 76 of the laws of 1963 is amended to read as follows:

"4. This act shall take effect immediately [but shall remain inoperative unless and until (a) the 'New Jersey Public Roads and Highways Bond Act of 1963' or the 'New Jersey Public Buildings Construction Bond Act of 1963' now pending before the Legislature or both are enacted and (b) such acts, or either of them, shall be approved by the people at the General Election to be held in the month of November 1963]."

On page 4, section 12, line 1, delete "12" and insert in lieu thereof "4".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
June 22, 1964.

SENATE BILL No. 18

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 18, with my objections, for reconsideration.

Senate Bill No. 18 would require the board of chosen freeholders of each county to cause a replica of the seal of the county to be conspicuously displayed upon every motor vehicle owned by the county, except those assigned to and used by the office of county prosecutor, the office of the sheriff, the county police department or the weights and measures department.

I believe the basic concept of this legislation is sound. The requirement of marking motor vehicles serves the function of identifying governmental vehicles as they carry out the business of government while, at the same time, it discourages any improper use of such vehicle. The one aspect of this legislation, however, which causes difficulty is the mandatory requirement that all vehicles be marked, except those assigned to and used by the specified law enforcement or quasi-law enforcement agencies. The particular exceptions in this bill may or may not be sufficiently broad to cover all of the circumstances under which the use of unmarked vehicles might be desirable or necessary to carry out the business of county government.

Because of the inflexibility of Senate Bill No. 18, the New Jersey Association of Chosen Freeholders has requested that the bill be conditionally vetoed to make it permissive in application. It is their view that there may be county offices, in addition to those specified in the bill, which properly should be excepted from the application of the bill. That this may be so, is demonstrated by the legislative history on this measure.

On two separate occasions, once in the Senate and once in the Assembly, amendments were proposed and adopted which expanded the list of excepted offices. This uncertainty, as to which offices should be excluded from the bill,

serves to highlight the need for vesting some discretion in an appropriate body. I see no reason why this power should not be vested in the boards of chosen freeholders themselves.

I do not agree, however, that the bill should be completely permissive in its application. I am, therefore, recommending that all county motor vehicles be marked with a replica of the seal of the county unless the board of chosen freeholders specifically exempts such motor vehicles from the application of this law.

In addition, I suggest that the effective date of this legislation be postponed for six months so that the counties will have a reasonable period of time within which to comply with the provisions of the law.

Accordingly, I herewith return Senate Bill No. 18 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 4, delete "assigned".

On page 1, section 1, lines 5 through 7, delete these lines in their entirety and insert in lieu thereof "motor vehicles which have been excluded from the application of this act by action of the board of chosen freeholders."

On page 1, section 2, line 1, delete this line in its entirety and insert in lieu thereof:

"2. In order to permit the business of county government to function in an efficient and effective manner, the board of chosen freeholders of each county may exclude, by resolution, from the application of this act those motor vehicles which they determine shall be operated without county markings.

"3. This act shall take effect 180 days after enactment."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
March 23, 1964.

SENATE BILL No. 35

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 35, with my objections, for reconsideration.

Senate Bill No. 35 would create a commission in the Legislative Branch of State Government "to make a study of the services, activities and functions and the operations of the 3 Branches of the State Government in the interest of the promotion of further economy, efficiency and improvement in the transaction of the public business of the State."

The commission would consist of 12 members. Four members would be appointed by the President of the Senate, 2 of whom would be members of that House, and 2 citizens of the State. Four similar appointments would be made by the Speaker of the General Assembly. The final 4 members would be appointed by the Governor. No more than half of each group of appointees could belong to any one political party.

The bill further provides that the commission shall remain in effect for a period of five years from the effective date of the act and appropriates $50,000.00 to the commission to carry out the purposes of the act.

Proponents of this measure have made much of the need of a thoroughgoing review of the operation of State Government presumably with emphasis on the Executive Branch. This administration welcomes such an inquiry. Although New Jersey ranks 50th among the states in the number of State employees per capita and 49th in per capita State taxes, it is essential that government strive to achieve continued economies for the taxpaying public.

In my annual message to the Legislature last January, I recommended a study of the type proposed by Senate Bill No. 35, pointing out that an objective nonpolitical review of governmental activities could be of great value to

the State. In that message, I stressed, however, that any commission created to conduct such a study should not be

> "a vehicle for political harassment but a means for an objective evaluation of the problems of government. To that end, I feel that I must stipulate that such a commission, if created, be composed of public members appointed by the Governor subject to confirmation by the Senate.
>
> "It is this means of balanced responsibility which the Constitution has established as a guarantee of the highest quality in appointments—from the Chief Justice of the Supreme Court through the whole range of the judiciary, for instance, where justice and impartiality form the touchstone of achievement. This method of appointment is certainly best, if indeed we are all sincerely interested in objectivity without suspicion of partisan motivation."

This statement was identical with the position I assumed last year in regard to a similar bill—Senate Bill No. 108 (1963). In face of this clear statement of position, I find it difficult to understand why the proponents of this measure have deliberately proposed a method of appointment which I have publicly stated on many occasions I cannot accept.

Apparently some members of the Legislature would prefer to see this bill embroiled in controversy rather than enacted into law. I trust, however, that most members of this body are genuinely interested in having the proposed study become an actuality rather than a political issue. If this is in fact the case, I would strongly urge the Legislature to accept the amendments recommended herein. If affirmative action is to be had on this proposal, it will come because we have acted together in harmony and concert for the ultimate good of the public.

Should the Legislature enact the proposal, I stand ready, with the advice and consent of the Senate, to appoint a commission whose experience in business and government and whose integrity and ability to carry this necessary task to a meaningful conclusion will inspire the public confidence essential to execute any major improvements the commission may recommend. Since these appointments will be publicly made and publicly considered, this proposal has as a safeguard the protection that inevitably flows from the attendant publicity which will stem from any action taken under this bill.

I am, therefore, returning this bill with the recommendation that the Governor appoint a 5-member commission, on a bipartisan basis, with the advice and consent of the Senate. This method will provide for an independent objective study of the problems of government and will remove this matter from the realm of political partisanship into which it has threatened to plunge.

I am also recommending two additional changes. First, I have suggested that the term of the commission be shortened. The 5-year period provided is inconsistent with the sense of urgency professed by the bill's proponents. I have fixed the expiration date as of June 30, 1966 which will allow the commission 2 full years. This should provide ample time. Second, I have deleted the $50,000.00 appropriation provided for the commission. It seems singularly inappropriate to provide such a sum of money to a commission to study economy and efficiency in government before the commission has been created, its members appointed and a budget prepared. I will support any reasonable request for funds submitted by the commission after it has organized and prepared a budget.

I am accordingly returning Senate Bill No. 35 for reconsideration, with the recommendation that it be amended as follows:

On page 1, Title, line 1, before "commission" insert "temporary".

On page 1, Title, lines 1 and 2, delete "in the Legislative Branch of the State Government".

On page 1, Title, lines 5 and 6, delete "from time to time".

On pages 1 and 2, Whereas Clauses, lines 1 through 37, delete the Whereas Clauses set forth in lines 1 through 37, inclusive, in their entirety.

On page 2, section 1, lines 1 and 2, delete "in the Legislative Branch of the State Government a" and insert in lieu thereof "a temporary".

On page 2, section 1, line 2, delete "to consist of 4" and insert in lieu thereof "consisting of 5".

On page 2, section 1, line 3, following "ernor," insert "with the advice and consent of the Senate,".

On page 2, section 1, line 3, delete "2" and insert in lieu thereof "3".

On page 2, section 1, line 3, delete ", 2" and insert in lieu thereof "."

On page 3, section 1, lines 4 through 8, delete lines 4 through 8 in their entirety.

On page 3, section 2, line 1, delete "a term of 5 years from".

On page 3, section 2, lines 2 through 4, delete lines 2 through 4 in their entirety and insert in lieu thereof "the duration of the commission. Vacancies shall be filled in the same manner in which the original appointments were made."

On page 4, section 9, line 4, delete "annually".

On page 4, section 9, line 5, after "lature" insert "on or before June 30, 1966".

On page 4, section 10, lines 1 and 2, delete section 10 in its entirety.

On page 4, section 11, line 1, delete "11" and insert in lieu thereof "10".

On page 4, section 11, line 2, delete line 2 in its entirety and insert in lieu thereof "on June 30, 1966."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 40

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 40, with my objections, for reconsideration.

Senate Bill No. 40 represents the first response of the Legislature to the vital and subsisting public need for legislation to define and prohibit conflicts between the official obligations and the private interests of members, officers and employees of the legislative and executive branches of government. When viewed as the culmination of many years of concerted effort by responsible legislators, public officials and private citizens to secure the passage of a meaningful law on this subject, the bill in some respects must be ranked as a major disappointment to all who regard public service as a public trust.

In the course of my past attempts to persuade the Legislature that the adoption of a truly viable conflicts of interest law is indispensable to the maintenance of public confidence in the governmental process, I have often stated that I would consider favorably any bill which embodies a reasonable approach to the problem. As indicated by my recent approval of Assembly Bill No. 466, the "Legislative Activities Disclosure Act," despite my reservations as to its efficacy, I am well aware that it would be pointless to insist upon perfection in this highly sensitive area. I also recognize that in some instances, a hesitant first step into uncharted territory may be preferable to nothing at all. Finally, I appreciate what the possible fate of Senate Bill No. 40 may be upon its return to the Senate with recommendations to strengthen it.

After careful consideration, however, I am convinced that this bill in its present form does not meet even the most minimal standards which reasonable men might expect of a workable conflicts of interest law, and that my unqualified approval of the bill would hinder rather than advance the cause of good government in New Jersey. Accordingly, I am returning this measure to the Senate for reconsideration in the light of the objections discussed herein. I do so with the earnest hope that the Senate will take a fresh look at its responsibilities to the citizens of this State.

At this point, it may be noted that my remarks are largely addressed to the Senate, rather than to the Legislature as a whole, for good reason. The General Assembly, as in previous years, once again has passed and sent to the Senate a conflicts of interest bill which represents a realistic effort to come to grips with the problem. Once again, as in previous years, the Assembly bill has been rejected by

the Senate. Although this measure, Assembly Bill No. 90, may possess certain shortcomings, it is generally a strong and meaningful bill which does credit to the House of its passage. A comparison of the salient features of Assembly Bill No. 90 with those of Senate Bill No. 40 may serve as a useful frame of reference within which to outline my objections to the bill before me.

I

First, both bills specify in detail the types of conduct in which legislators and State officers, employees and appointees would be forbidden to engage. Both bills also provide for the promulgation of a "code of ethics" for each State agency, by which members of that agency must abide on pain of dismissal or other internal disciplinary action. But where Assembly Bill No. 90 would penalize all violations of its substantive prohibitions as misdemeanors, with no distinction between legislators and others in that regard, Senate Bill No. 40 contains no comparable sanctions of any kind.

As to State officers, employees and appointees, the bill would authorize removal or other departmental punishment for the sort of misconduct which has always constituted cause for removal. As to legislators, the bill envisions a procedure whereby each House would establish a Standing Committee on Ethics to receive and investigate, "in closed executive session," complaints against members of that House involving charges of conflicts of interest. Upon a finding that an accusation is serious enough to warrant action by the House, and is supported by sufficient evidence, this committee would report that finding to the House, again in executive session. If the House as a body agrees with the findings of the Ethics Committee, the matter "may" be referred to another committee for hearing. If it is determined by that committee that the accused "is guilty of a violation of any of the principles set forth in this act," the House "may" punish him by censure, expulsion or "such other penalty as the Constitution shall permit."

As can be seen, the difficulty with these "sanctions" is that they add absolutely nothing to existing law. No new legislation is needed to authorize the dismissal for cause of unfaithful State officers and employees. No legislation is required to empower the Legislature to discipline errant members, and to establish internal procedural machinery

for that purpose. These powers have long existed, but the problem persists. What is urgently needed by way of legislation, as a truly effective deterrent against official improprieties, is the assurance of certain and impartial enforcement of a conflicts code or law.

As noted, Assembly Bill No. 90 would rely upon the imposition of criminal penalties for enforcement. I am not convinced that it is particularly appropriate to treat breaches of any code of professional ethics as crimes in and of themselves, for I agree substantially with those who maintain that public exposure and the resultant discredit ordinarily are punishment enough. Nevertheless, criminal sanctions do possess the virtue of assuring an impartial investigation by an independent tribunal of charges of conflicts of interest, together with a public accounting through the judicial process by persons who have betrayed the public trust.

The objective of impartial enforcement can be realized without resort to criminal penalties, but not by granting to the Legislature the exclusive power to hear and determine charges against its own members in closed session, or by leaving accusations against State officers and employees exclusively to internal departmental disposition. In particular, I cannot agree that the members of the Legislature generally should be shouldered with the distasteful assignment of passing upon charges against their colleagues. No man should be asked to act as his own judge.

It would be unwise to vest in the Legislature the responsibility for enforcement of its code of conduct for another equally important reason. For good cause or not, public attention to the subject of conflicts of interest long has been focused primarily upon the activities of the Legislature. In order to assure the confidence of our citizens in their government, it is imperative that no suspicion concerning the bona fides of the Legislature be given a basis for existence. In a society which derives its order from the consent of the governed, men in public office not only should do justice but also should satisfy the people that justice has in fact been done. If Senate Bill No. 40 were approved, it could increase rather than dispel public cynicism toward the Legislature. It is not difficult to forecast that the exoneration of an accused legislator by the membership of his House would be attended by suspicion that the charge was neither diligently investigated nor disposed of on its merits.

The recent United States Senate investigations indicate the insurmountable obstacles any body must face when it seeks to judge itself.

After careful consideration, therefore, I am recommending that this bill be amended to adopt a third course which lies between criminal penalties and internal legislative self-judgment. As an alternative, I propose that the State House Commission, as an appropriate independent and disinterested tribunal, be empowered to hear and determine the validity of all complaints regarding violations of the substantive prohibitions specified by the bill. This commission, composed of responsible members of both the executive and the legislative branches, can be well suited for the task. The suggested amendment would establish civil penalties for all violations by members and employees of the executive branch, and would authorize their suspension or removal from State office or employment.

In the case of members and employees of the Legislature, the State House Commission would report its findings to the appropriate House with a recommendation as to what action, if any, should be taken by that House against the offender. Such a procedure, while it would defer to the right of each House of the Legislature to judge the qualifications of its own members, would assure the public that a full and fair hearing will be given to all charges of legislative conflicts of interest by an impartial body. Once the question of guilt or innocence in a given case has been established publicly by the commission, I have no doubt that the House of the offender's membership can take appropriate action with the full confidence of the public behind it.

This proposal is offered with my sincere hope that the Senate will embrace it as an acceptable compromise between the harshness of criminal penalties and the illusory sanctions now contained in the bill. At the same time, I wish to emphasize that although this amendment represents the approach which I happen to prefer, I would approve the criminal penalty provisions of Assembly Bill No. 90 if the Senate should decide to pass that bill instead.

## II

Turning next to an examination of the particular types of conduct which Senate Bill No. 40 would prohibit, I feel that the bill generally establishes a reasonably satisfactory standard of conduct to be observed by legislators and other

public officials, with two notable exceptions. First, this measure, unlike Assembly Bill No. 90, would authorize legislators and others to carry on settlement negotiations with State agencies during the pendency of judicial condemnation proceedings. Secondly, the bill would allow legislators and others to practice before State agencies, provided that the amount of their fees are not contingent upon the action taken by the agency. I do not believe that either of these activities is in the public interest, and ordinarily I might recommend the deletion from the bill of those provisions.

I cannot escape the conviction, however, that the repassage and enactment of this bill with provision for impartial enforcement would, on balance, constitute a salutary step. As stated above, I have not found it possible to demand perfection from this sort of legislation. I have decided, therefore, that the chances of this measure's repassage should not be jeopardized by further substantive changes at this time. Thus, I have not recommended any change in the provisions involving dealings with State agencies, with the hope that the enforcement changes I have suggested will meet approval.

III

The remainder of my objections to the bill in its present form are relatively minor, but should be noted. First, public-spirited citizens who undertake to serve without compensation on governmental boards and commissions should be excluded from the general definitional sections, and should be covered only by those provisions of the bill which are pertinent to their situations. Such persons function in a narrow sphere, usually on a part-time basis, and should not be disqualified from dealing with the State in areas which have no connection with their public activities and do not in fact involve conflicts of interest.

Additionally, the section which limits the right of former State officers, employees and appointees to receive compensation for services rendered in the area of State government in which they were previously employed should be clarified. The bill now provides that no such person shall accept compensation for services rendered before a State agency in any "cause, proceeding, application or other matter in which he has given an opinion, made an investigation or has been directly concerned in the course of his duties." I agree that as a matter of ordinary ethical con-

duct no former officer or employee of the State should have the right to leave State employment for the purpose of using the knowledge he has gained against his former employer. This prohibition, therefore, is an appropriate one. The bill's present provisions, however, are so vague as to defy reasonable interpretation. I have suggested language which should help to clarify the application of this section to such former officers and employees.

For the reasons set forth above, I herewith return Senate Bill No. 40 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 8, after "agency" insert "; but it shall not include persons who serve without salary or other compensation for their services".

On page 2, section 1, line 15, after "government" insert ", nor shall it include persons who serve without salary or other compensation for their services".

On page 4, section 6, line 2, after "appointee" insert ", including persons who serve without salary or other compensation for their services,".

On page 4, section 8, line 2, after "agency," insert "including persons who serve without salary or other compensation for their services,".

On page 5, section 8, line 8, after "employee" insert ", person".

On page 5, section 9, line 2, after "appointee" insert ", including persons who have served without salary or other compensation for their services,".

On page 5, section 9, line 5, delete "in any cause, proceeding, application or other matter".

On page 5, section 9, line 6, delete line 6 in its entirety.

On page 5, section 9, line 7, delete "concerned in the course of his duties," and insert in lieu thereof "in connection with any matter in which he personally was concerned in the course of his duties in the agency in which he was employed or served,".

On page 7, section 11, line 21, delete "or legislation".

On page 7, section 11, line 33, delete "or of the provisions of this chapter".

On page 7, section 11, line 38, delete "and legislation".

On page 7, section 11, line 41, delete "the provisions of this chapter and".

On pages 8 and 9, sections 13, 14, 15, 16 and 17, delete these sections in their entirety and insert in lieu thereof:

"13. (a) The State House Commission shall have jurisdiction to hear complaints regarding violations of this act and any complaints regarding violations of codes of ethics referred to it by the Commission on Ethical Standards. Any person, other than a member or appointee of the Legislature, who shall be found guilty by the Commission of violating any of the provisions of this act or the provisions of any such code shall be fined not less than $100.00 nor more than $500.00. Such penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement law (N.J.S. 2A:58–1).

"(b) In the case of any person, other than a member or appointee of the Legislature, the Commission may order any such person found guilty suspended from his office or employment for a period not in excess of 1 year. If the Commission shall find that the conduct of such officer, employee or appointee represents a willful and continuous disregard of the provisions of this act or such code, the Commission may order such person removed from his office or employment and may further bar such person from public employment in this State in any capacity whatsoever for a period not in excess of 5 years from the date he was found guilty by the Commission.

"(c) In the case of a member or appointee of the Legislature, the Commission shall report its findings to the House of the Legislature in which such person shall be a member or appointee and shall recommend to such House such action, as in its opinion, shall be appropriate under the circumstances. It shall be the sole responsibility of such House of the Legislature to determine what action, if any, shall be taken against such member or appointee.

"14. The State House Commission, in order to carry out the provisions of this act, shall have the power

to conduct investigations, hold hearings, compel the attendance of witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. The members of the Commission and the persons appointed by the Commission for such purpose are hereby empowered to administer oaths and examine witnesses under oath.

"15. (a) Within the limits of available appropriations, the State House Commission, subject to the approval of the Governor, may employ counsel and other professional personnel and employees, fix their compensation and assign their duties and responsibilities.

"(b) The State House Commission shall adopt such rules and regulations as shall be necessary to implement the provisions of this act."

On page 9, section 18, line 1, delete "18." and insert in lieu thereof "16."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL NO. 54

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 54, with my objections, for reconsideration.

Senate Bill No. 54 would establish a mandatory procedure for an annual central inventory of "all property, both real

and personal, owned by the State." Under this procedure, the head of each principal department of State government would submit to the Director of the Division of Purchase and Property a yearly report, containing (1) "a complete list of all real and personal property" held by that department; (2) an indication of which division, bureau or other agency within the department has custody of each item; and (3) in the case of personal property, a designation as to whether each item held by the department is in regular use, is reserved for standby use, or is regarded as surplus. On the basis of these departmental reports, the Director of the Division of Purchase and Property would compile an annual master list of all State holdings. The bill, however, fails to appropriate any funds to meet the cost of this new program.

No one, I am certain, would quarrel with the purpose of this bill or with the assertion of its proponents that a centralized inventory system would constitute a further contribution to the efficient and economical management of the State's business. As a matter of long-standing policy, all departments are constantly reviewing their operations with the objective of conducting them in the least expensive, yet most effective manner. This continuing effort has met with demonstrable success, for it is a matter of record that New Jersey currently ranks 50th among all the states in total per capita governmental expenditure. At the same time, we must recognize that it can never become impossible to achieve even greater reductions in the cost of government. Thus I am always receptive to proposals, such as Senate Bill No. 54, which aim toward that goal.

In its present form, however, this measure could be interpreted to impose upon the State a new financial burden which would be wholly out of proportion to whatever benefits might be realized from the adoption of a central inventory program. When a fiscal note was requested while the bill was pending in the Legislature, the Director of the Division of Budget and Accounting submitted to the Legislative Budget and Finance Director an estimate that such a program would cost $330,000.00 for the first year of its operation and $130,000.00 for the following year. This estimate was based upon the inventory experience of other states and the Federal government, and upon the Budget Director's understanding that the bill "is intended to cover virtually *all* items of real and personal property owned by

the State." The Legislative Budget and Finance Director, acting pursuant to *P. L.* 1962, c. 27, decided that these figures were inaccurate, and substituted his own fiscal note estimating the annual cost of the program at only $30,000.00. It was this note, which contained no reference to the rejected initial estimate of $330,000.00, that was furnished to the Legislature and upon which the bill was considered and passed.

The text of the fiscal note prepared by the Legislative Budget and Finance Director does not undertake to explain the reasons for the startling discrepancy between his estimate and that of the Director of the Division of Budget and Accounting. It would appear, however, that the revised $30,000.00 estimate was predicated on the assumption that the scope of the bill is limited to those relatively few items of property which can be inventoried and valued by the various departments at little or no additional effort and expense. This category presumably would be confined to real property which already has been surveyed, and to large and important items of personal property such as machinery, structures and automotive equipment. Thus the fiscal note evidently discounted any consideration of a complete survey of all State-owned realty, a project which to date has cost the State of Ohio $457,000.00, as well as the factors involved in compiling departmental lists of *all* personal property down to the last pencil and paper clip. However, as was correctly observed by the Director of the Division of Budget and Accounting, Senate Bill No. 54 by its terms would extend to "all property, both real and personal," including the types of property which the Legislative Budget and Finance Director apparently saw fit to read out of the bill.

These substantially different interpretations of the legislative intent, leading as they have to such widely divergent fiscal projections, suggest the need for clarification of the categories of property to be covered by this bill. For the reasons advanced by the Director of the Division of Budget and Accounting and supported by others who are knowledgeable in this area, I am convinced that it would be far too costly for the State to undertake an itemized inventory of each and every item which it owns, including, for example, such miniscule and non-durable articles as ordinary office supplies. While the notion of an absolutely exhaustive inventory might be appealing in the abstract, this State

has too many other immediate fiscal needs to warrant the expenditure of the sort of money such a project would require.

On the other hand, it would seem pointless to restrict the application of the bill to the more important types of property which can be inventoried at the minimal cost and effort suggested by the fiscal note of the Legislative Budget and Finance Director. The information so obtained would be of a general nature and would be of limited assistance to those interested in improving the State's handling of its property. This program, if it is to be meaningful, should extend to all categories of State assets which represent significant property investments, and which in fact can be inventoried at a cost commensurate with the advantages to be derived from the program.

Such a criterion admittedly is nebulous. We must realize, however, that the adoption of a central inventory system is in the nature of an experiment for this State. Despite the easy assurances of some, no one can know exactly how it will work or how much it will cost. Thus I believe it would be best at this time to delineate and establish those categories of property which lend themselves to an effective central inventory that will not be prohibitively expensive to conduct. When the program has been initially established and can be evaluated in its operation, categories can be added or expanded on the basis of actual experience in this field.

Therefore, I am recommending that Senate Bill No. 54 be amended to empower the State Treasurer, as our chief fiscal officer, to establish those categories of State-owned property which should be covered by an efficient and economical central inventory system. The preparation of such categories will provide a factual basis on which to accurately estimate the initial cost of the program for the purpose of providing a suitable appropriation. The State Treasurer also should be authorized to regulate the timetable for the effectuation of this experimental program, lest it be hampered at its birth by the rigid deadlines now imposed by the bill. In this manner, the pioneer project envisioned by Senate Bill No. 54 could be undertaken with some sense of direction rather than as a venture into the unknown.

The scope and complexity of the project, however, are such that even the initial step of establishing categories will

require manpower and expenditures not now available to the Treasury Department. I have been informed that this preliminary task will cost $10,000.00 in additional salaries and facilities, and I suggest that the bill be further amended to appropriate that sum.

Finally, I am recommending that section 3 of the bill, which concerns the duty of the Division of Purchase and Property to reassign surplus items of personal property on the basis of need, be amended to include real property as well, and to eliminate possible conflicts with the existing law on this subject.

In conformity with the foregoing suggestions, I herewith return Senate Bill No. 54 for reconsideration and with the recommendation that it be amended in the following respects:

On page 1, title, line 2, after "upon" insert "the State Treasurer,".

On page 1, title, line 3, delete "upon".

On page 1, title, line 4, after "therewith" insert ", and providing an appropriation therefor".

On page 1, section 1, line 1, insert a new section as follows:

"1. It shall be the duty of the State Treasurer, as soon as may be practicable after the effective date of this act, to establish by regulation the categories of property owned by the State which shall be subject to the central inventory program created by this act. Such categories shall include all property, both real and personal, owned by the State, whether held in the name of the State or in the name of a principal department or of any division, bureau, commission or other instrumentality within a principal department, which it may be necessary or desirable to inventory in furtherance of the efficient and economical management of the assets of this State.

"The State Treasurer also shall establish by regulation a schedule which shall specify the times or dates by which all duties imposed by this act upon the head of each principal department and upon the Director of the Division of Purchase and Property shall be performed.

"In addition to the foregoing powers and duties, the State Treasurer is hereby authorized and empowered to make, alter, amend and repeal such rules and regulations as shall be necessary to implement the provisions of this act."

On page 1, section 1, line 1, delete "1" and insert in lieu thereof "2".

On page 1, section 1, lines 1 through 6, delete the first sentence of this section in its entirety and insert in lieu thereof, "It shall be the duty of the Director of the Division of Purchase and Property to prepare in triplicate on or before such date in each year as shall be designated by regulation of the State Treasurer a master list of all property which is included in any of the categories established by regulation of the State Treasurer pursuant to section 1 of this act."

On page 1, section 2, line 1, delete "2" and insert in lieu thereof "3".

On page 1, section 2, lines 3 and 4, delete "on or before April 30".

On page 1, section 2, line 4, after "Property" insert ", on or before such date in each year as shall be designated by regulation of the State Treasurer,".

On page 2, section 2, line 8, after "January 1", insert ", and which is included in any of the categories established by regulation of the State Treasurer pursuant to section 1 of this act".

On page 2, section 2, line 18, delete "July 31, 1964" and insert in lieu thereof "such date as may be designated by regulation of the State Treasurer".

On page 2, section 3, line 1, delete "3" and insert in lieu thereof "4".

On page 2, section 3, line 2, after "of" insert "real or".

On page 2, section 3, line 10, delete "reassign" and insert in lieu thereof "provide for the reassignment of".

On page 2, section 3, line 11, after "appear" insert "or for the sale thereof in accordance with the provisions of law applicable to the reassignment or sale of such property".

On page 2, section 4, line 1, delete "4" and insert in lieu thereof "5".

On page 2, section 5, line 1, delete "5" and insert in lieu thereof "6".

On page 2, section 5, line 2, delete "section 1" and insert in lieu thereof "section 2".

On page 3, section 5, line 5, delete "section 2" and insert in lieu thereof "section 3".

On page 3, section 5, line 7, delete "sections 3 and 4" and insert in lieu thereof "sections 4 and 5".

On page 3, after line 9, insert a new section as follows:

"7. There is hereby appropriated to the State Treasurer the sum of $10,000.00 for the purpose of carrying out the duties imposed on him by this act."

On page 3, section 6, line 1, delete "6" and insert in lieu thereof "8".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 57

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 57, with my objections, for reconsideration.

Senate Bill No. 57 would amend the corporation law concerning annual reports to provide that the fee for filing

all reports due prior to July 1, 1963 shall be $1.00 rather than the $10.00 fee charged for filing current reports. This bill is prompted by legislation enacted several years ago which increased the fee for filing annual reports from $1.00 to $10.00. Since many corporations were derelict in filing annual reports in previous years, the increase in fee has resulted in some corporations being liable for hundreds of dollars in filing fees. Senate Bill No. 57 seeks to avoid this result.

Initially, I must point out that for the past 5 years the Secretary of State's office has conducted a vigorous drive to compel corporations to comply with the annual report requirements. In 1959 approximately 12,000 reports were filed. In the year ending June 30, 1964, over 190,000 reports were filed of which one half were back year reports. Much of the efficacy of this drive would be impaired by Senate Bill No. 57 which rewards the tardy and ignores the diligent. It would benefit only the relatively few recalcitrant corporations. I can see no justification in extending a reduced filing fee to the relatively small number of corporations which have failed to give heed to numerous requests to comply with the law.

According to the Secretary of State, nearly 60% of all listed corporations are now current in their report filings and only 8% have failed to respond to notices of delinquency. Of the remaining number, delinquency notices were returned because of incorrect addresses or because a proper agent was not designated. Most of these corporations presumably are no longer active.

The Secretary of State, however, has indicated that no useful public purpose is served by the filing of extremely old reports. I am, therefore, recommending that this bill be amended to establish a 5 year limitation on the filing of reports. This will free the Department from its responsibility of seeking the filing of useless reports and will limit the liability for back reports to $50.00. I am also suggesting a simplification of the existing procedure for collecting the penalty for the failure to file reports. This will assist both the Secretary of State and the Attorney General in the administration of the law.

Accordingly, I herewith return Senate Bill No. 57 for reconsideration and recommend that it be amended as follows:

On page 2, section 1, line 32, after "certified" insert "or registered".

On page 2, section 1, line 34, after "State" insert "a penalty of".

On page 2, section 1, line 34, after "$200.00," insert "for each report required to have been filed not more than 5 years prior thereto and remaining unfiled,".

On page 2, section 1, line 38, delete "report last" and insert in lieu thereof "reports".

On page 2, section 1, line 39, after "filing of" delete "the".

On page 2, section 1, lines 40 and 41, delete lines 40 and 41 in their entirety.

On page 2, section 1, line 42, delete "default in filing such reports on or after said date, if any." and insert in lieu thereof: "each such report. As an additional or alternative remedy, the Secretary of State may issue a certificate to the Clerk of the Superior Court that a corporation is indebted for the payment of such penalty, and thereupon the Clerk shall immediately enter upon his record of docketed judgments the name of such corporation, and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty so certified, and the date of making such certification. The making of the entries shall have the same force and effect as the entry of a docketed judgment in the office of such Clerk, and the Secretary of State shall have all of 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 a civil action, but without prejudice to the corporation's right of appeal."

On page 4, section 2, line 23, delete "prior to July 1, 1963 and filed thereafter, $1.00, and for each such report required to be filed in each year thereafter".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 13, 1964.

SENATE BILL No. 121

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I herewith return Senate Bill No. 121, with my objections, for reconsideration.

This bill would amend the Teachers' Pension and Annuity Fund to allow a supplemental period within which members of the Fund who have not yet elected to subscribe for the contributory life insurance coverage which is generally available to new members may elect to purchase such additional death benefit coverage. In this respect, Senate Bill No. 121 is comparable with the recent amendments to the Public Employees' Retirement System contained in Chapter 121, P. L. 1963, and the amendments to the Police and Firemen's Retirement System contained in Chapter 12, P. L. 1961.

The bill does differ from these earlier amendments in one significant respect. It provides that in order to qualify for this additional coverage a member cannot retire in less than seven years after the day when this program becomes effective as to him. This limitation, I am sure, was inserted in order to safeguard the optional death benefit program against the contingency that the number of deaths during the operation of the first seven years of this additional coverage might overburden the entire plan. Since the entire cost of this program is borne by the employees, this is an important consideration.

Therefore, at my request, a review was made of the present financial condition of the death benefit program under the Teachers' Pension and Annuity Fund as well as an evaluation of the additional liability contemplated by this bill. I have been informed that the status of the optional death benefit program is sound and that it has the ability to absorb this additional liability. Under the circumstances, the seven year limitation represents an unjustifiable restriction on the operation of the program which will work to the detriment of the members covered thereunder as

well as complicating the administration thereof. I, therefore, recommend that it be removed.

Additionally, the bill permits members to make application for this coverage during the period between September 1, 1964 and February 28, 1965. I have been advised that it would be impossible administratively to accomplish the necessary processing during this period. The work burden of the Division of Pensions, in relation to this pension program, reaches its high point in September as new teachers enroll and others withdraw from the Fund. Approximately 11,000 teachers enrolled in this Fund last year and it is estimated that the number will this year increase to 15,000. A more efficient and prompt job of recruiting and processing applications for this additional coverage can be achieved if the enrollment period is fixed as being from January 1, 1965 to June 30, 1965.

I am accordingly returning Senate Bill No. 121 for reconsideration with the recommendation that it be amended as follows:

On pages 1 and 2, section 1, lines 17 and 18, delete "September 1, 1964 to February 28, 1965", and insert in lieu thereof "January 1, 1965 to June 30, 1965".

On page 3, section 1, lines 58 to 62, delete ", nor shall such coverage apply in the case of a member electing the additional death benefits described in subsection d of this section pursuant to subsection b of this section if such member retires less than 7 years after the day the plan became effective for the member".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 30, 1964.

SENATE BILL No. 124

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 124, with my objections, for reconsideration.

Senate Bill No. 124 is designed to eliminate duplicate workmen's compensation insurance coverage of members of volunteer fire companies and first aid or rescue squads which serve more than one municipality or fire district. The bill is also intended to clarify the extent of such coverage in certain respects, and to grant volunteer fire companies the option of providing compensation insurance for their own members in lieu of relying upon the appropriate governing body to do so.

While I do not object to any of these purposes, the manner in which the bill was drawn does not adequately communicate the legislative intent in several respects. A major problem is the ambiguity caused by the provision which would authorize fire companies to carry their own compensation insurance and to provide evidence of such coverage to the appropriate municipality. When read with the present law requiring the municipality or fire district to provide compensation insurance, it becomes evident that this could require duplicate coverage. In order to clarify the responsibility and to assure coverage, the municipality or fire district should be relieved of its obligation upon receipt of evidence that the fire company is providing for its own compensation insurance.

Several other problems are created through the use of inconsistent language. With the cooperation of the sponsor, amendments have been developed to eliminate these difficulties.

Accordingly, I herewith return the measure for reconsideration and with the recommendation that it be amended as follows:

On page 2, section 1, line 26, after "marshals" insert ",".

On page 2, section 1, line 26, after "and" insert "the term 'doing public first aid or rescue duty,' as applied to".

On page 2, section 1, line 26, after "workers" insert ",".

On page 2, section 1, line 29, after "company" insert "or the first aid or rescue squad".

On page 2, section 1, line 30, after "parade" insert ",".

On page 2, section 1, lines 30 and 31, delete "of said volunteer firemen or marshals either with or without their fire apparatus".

On page 3, section 2, line 3, before "governing" delete "The" and insert in lieu thereof "Except as otherwise provided in this section, the".

On page 4, section 2, line 21, delete "who contribute" and insert in lieu thereof "which contributes".

On page 4, section 2, line 22, delete "and emergency" and insert in lieu thereof "or rescue".

On page 4, section 2, line 29, after "committee" insert ", nor shall the provisions of this section require the governing body of any municipality or the committee of any fire district to provide compensation insurance whenever evidence that a fire company has obtained its own insurance coverage is provided to the governing body or committee".

On page 4, section 3, lines 1 through 4, delete these lines in their entirety and insert in lieu thereof "Any volunteer fire company may provide compensation insurance for".

On page 4, section 3, lines 5 and 6, delete "and emergency" and insert in lieu thereof "or rescue".

On page 5, section 3, line 13, delete "required" and insert in lieu thereof "authorized".

On page 5, section 3, line 14, after "municipality" insert "or the committee of any fire district".

On page 5, section 4, line 1, delete "1964" and insert in lieu thereof "1965".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL NO. 134

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 134, with my objections, for reconsideration.

This bill would require the approval of the State House Commission, in three separate areas, in connection with any capital construction financed from the proceeds of a general credit bond issue. Approval would be required:

(1) Before any work extras are ordered in excess of 5% of the total expenditure provided for in the general contract;

(2) Before funds for capital construction can be transferred from any project to which they have been allocated; and

(3) Before any contract in excess of $500,000 is awarded.

As to the first two items, I am in full agreement with the proposal. Both work extras and project transfers relate to the cost and the magnitude of the project in question and are appropriate items for review by the State House Commission. The third item, however, concerning the awarding of contracts of $500,000.00 does not fit into such a category. Such contracts cannot now be awarded until the Legislature has specifically appropriated the proceeds from the bond issue for the building or project in question. In addition, any contract in excess of $2,500.00 must be let after public bidding by the Division of Purchase and Property to the lowest qualified bidder unless there is cause for disqualifying such a bidder.

If the Commission were to undertake the responsibility for reviewing the awarding of such contracts, they could do so in a meaningful sense only if they were to interfere with the specific mandate of the Legislature or with the competitive bidding practices as entrusted by law to the Division of Purchase and Property. I can see no useful basis for this result. The Commission would undoubtedly find itself in the position of merely ratifying these contracts

after delaying their execution until it has had an opportunity to review them at one of its periodic but infrequent meetings.

Accordingly, I herewith return Senate Bill No. 134 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 1, delete the colon and insert in lieu thereof "in connection with any contract for the construction of any".

On page 1, section 1, lines 2 and 3, delete lines 2 and 3 in their entirety.

On page 1, section 1, line 7, delete the semi-colon and insert in lieu thereof a colon.

On page 1, section 1, line 8, delete "(b)" and insert in lieu thereof "(a)".

On page 1, section 1, line 8, delete "in connection with any contract" and insert in lieu thereof ", in excess of 5% of the total expenditure in the aggregate provided for in such contract,".

On page 1, section 1, line 9, delete "as set forth in paragraph (a) hereof".

On page 1, section 1, lines 10 and 11, delete "in excess of 5% of the total expenditure provided for in such contract".

On page 1, section 1, line 12, delete "(c)" and insert in lieu thereof "(b)".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 152

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 152, with my objections, for reconsideration.

Senate Bill No. 152 provides that whenever a civil or criminal action is brought against any person who is a member of a board of education for any act or omission "arising out of and in the course of the performance of his duties" as a board member, and such action results in a final disposition favorable to the board member, the costs of defending the litigation shall be borne by the board of education.

Undoubtedly, the public-spirited citizens who serve without compensation as members of boards of education should not be required to incur the personal expense of defending themselves against lawsuits growing out of the performance of their official duties. I, therefore, agree that the existing law which heretofore has been construed to recognize the implied authority of local boards to defray the legal expenses of board members in such cases should be codified and converted by statute into a mandatory duty. Boards of education now have a statutory obligation to furnish legal assistance to public school officers and employees in similar instances (R. S. 18:5–50.2), and it seems entirely appropriate to provide board members with the same assurance of protection against the legal hazards which sometimes inhere in public service.

As this bill is drawn, however, it fails to achieve much of its apparent objective by providing, as a prerequisite to such assistance, that the litigation must terminate favorably to the board member. This means that a board member sued in connection with his official duties would be entirely responsible for his own legal expenses in the first instance, without assurance of reimbursement unless the case is decided in his favor. By way of contrast, public school officers and employees now are entitled by statute to legal assistance at the board's expense upon the commencement

of suit, without regard to the final outcome of the proceedings. R. S. 18:5–50.2. In addition, the existing implied authority of boards of education to bear the costs of defending suits against their members is not contingent upon favorable termination of the litigation.

If this bill is intended to advance rather than to reduce the existing rights of members of boards of education in this regard, I can discern no sound reason for imposing so formidable and unrealistic a condition upon their right to such protection. So long as the act for which a board member is sued was performed pursuant to his official obligations, the final result of the suit should have no bearing upon the duty of the board to bear the cost of his defense.

Accordingly, I herewith return Senate Bill No. 152 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, lines 3 and 4, delete "and such action results in final disposition in favor of such person".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 190

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 190, with my objections, for reconsideration.

Senate Bill No. 190 would amend the "Motor Carriers Road Tax Act of 1963" to provide for a refund of the tax imposed by this act to a carrier "to the extent that such

carrier has paid a tax of similar nature to a taxing jurisdiction outside this State on or by reason of the use or consumption . . . of motor fuel attributable to purchase in this State.''

The act which this bill would amend imposes a road tax on motor carriers equivalent to the rate per gallon of the motor vehicle fuel tax, calculated on the amount of motor fuel used in the carriers' operation in the State. Such carriers are now entitled to a credit against this tax to the extent that the carrier actually purchases motor fuel within the State. Thus, a carrier which purchased in New Jersey as much motor fuel as its vehicles consumed in this State would not be subject to any tax liability under the ''Motor Carriers Road Tax Act.'' This tax, therefore, is fundamentally a device for insuring that New Jersey receives its fair share of motor fuel purchases from interstate carriers. It cannot be viewed as strictly a revenue raising device in its own right although traditionally many carriers have made over-purchases in this State because of its location.

Within this context, the refund provision of this bill is reasonable. The Division of Motor Vehicles has indicated that unless such refunds are authorized many carriers who now over-purchase motor fuel in this State will shift some or all of such over-purchases to the states in which they would otherwise incur a road tax liability. Such a reshifting of motor carriers' purchasing patterns could conceivably reduce this State's motor fuel tax revenues to an extent even greater than the revenue loss that will occur from the granting of the requested refunds.

Senate Bill No. 190, however, should be amended in several respects. For example, all road tax states which grant refunds require the posting of surety bonds. Such a provision should be inserted in this bill. In addition, the provision for the examination of carriers' books should require such inspection to take place at the carriers' place of business. This will permit the Division of Motor Vehicles to carry out an extensive audit while not inconveniencing the interstate carriers. To cover the cost of such inspections, I recommend that the annual registration fee be increased from $2.00 to $3.00.

Finally, I suggest the bill take effect as of the October 1 reporting period. This date coincides with the date on which the Pennsylvania Road Tax Act went into effect and

will avoid any period of double taxation as far as that State is concerned.

Accordingly, I herewith return Senate Bill No. 190 for reconsideration and recommend that it be amended as follows:

On page 3, section 1, line 56, after "period." insert the following sentence: "The director shall not allow such refund except after an audit of the applicant's records and shall audit the records of an applicant at least once a year."

On page 3, section 1, line 58, after "carrier." insert the following: "If the director refuses to allow a refund in the amount claimed by the applicant, the applicant may request a formal hearing on the application for a refund. Such hearing shall be held by the director or his representative after notice to the applicant of not less than 10 days.

"A motor carrier may give a bond issued by a surety company authorized to do business in this State, in the amount of $10,000.00 payable to the director on condition that the carrier will pay all taxes due and to become due under this act from the date of the bond to the date when either the carrier or the bonding company notifies the director that the bond has been canceled. So long as the bond remains in force, the director may order refunds to the motor carrier in the amounts appearing to be due on applications for refunds filed by the carrier without first auditing the records of the carrier. The surety shall be liable for all omitted taxes assessed against the carrier, including the penalties and interest on such taxes provided in section 15 of this act, even though the assessment is made after cancellation of the bond, but only for such taxes due and payable, while the bond was in force, and penalties and interest on such taxes."

On page 3, section 1, line 64, after line 64 insert the following sections.

"2. Section 9 of the act of which this act is amendatory is amended to read as follows:

"9. Every motor carrier shall keep such records, in such form as the director reasonably may prescribe, as will enable the carrier to report and enable the

director to determine the total number of over-the-road miles traveled by its entire fleet of motor vehicles, the total number of over-the-road miles traveled in New Jersey by said entire fleet, the total number of gallons of motor fuel used by said entire fleet and the total number of gallons of motor fuel purchased in New Jersey for said entire fleet. All such records shall be safely preserved for a period of 3 years in such manner as to insure their security and availability for inspection by the director or any authorized assistant engaged in the administration of this act. Upon application in writing, stating the reasons therefor, the director may, in his discretion, consent to the destruction of any such records at any time within said period. *The director or his authorized agents and representatives may, at any reasonable time, inspect the books and records of any motor carrier subject to the tax imposed by this act.* [Every motor carrier shall, upon reasonable notice from the director, be required to produce his books and records at such place in this State as the director may designate.] The director shall provide by regulation for any such examination of books and records [, upon request,] to be conducted at the office or offices of the motor carrier where such books and records are maintained. [The regulation may require the motor carrier, as a condition thereof, to reimburse the Division of Motor Vehicles, in such reasonable amount as the director by regulation shall have fixed, for the actual extra expense thereby incurred by the division.]

"3. Section 10 of the act of which this act is amendatory is amended to read as follows:

"10. The director shall provide an identification marker and registration card for every motor vehicle operated by the motor carrier, except that no identification marker shall be required for motor vehicles which bear valid New Jersey registration plates. The requirement for identification marker and registration card shall apply, as well, to exempt resident motor carriers. The identification marker shall be affixed to the vehicle in such manner as shall be prescribed by the director and the registration card shall be carried in the cab of the vehicle. The identification marker and registration card shall remain the property of this State and may be recalled for any violation of the provisions of this act or of the regulations promulgated hereunder. The

director shall also provide, by regulation, for the registration of every such vehicle. Registration cards and identification markers shall be issued on an annual basis as of January 1 of each year and shall be valid through the next succeeding December 31. For the year 1963, registration cards and identification markers shall be valid from the effective date of this act through December 31, 1963. The fee for a registration card shall be $3.00 for such portion of 1963. Said fee shall be $5.00 for the year 1964, and [$2.00] *$3.00* for the year 1965 and for each succeeding year. There shall be no fee for identification markers. It shall be illegal to operate or to cause to be operated in this State any motor vehicle unless the vehicle bears the identification marker, if required, and carries the registration card required by this section; provided, however, that, for a period not exceeding 25 days as to any one motor carrier, the director, upon request made by the motor carrier, may by letter or telegram authorize the operation of a vehicle or vehicles without the identification marker or the registration card required when the enforcement of this requirement for that period would cause undue delay and hardship in the operation of the said vehicle or vehicles. If the director shall find that the period of time available between the enactment and the effective date of this act is too short for necessary preparation and compliance with the provisions of this section by the division or by a substantial number of motor carriers, he in his discretion may, by regulation, postpone the deadline for compliance to a date not later than June 30, 1963."

On page 3, section 2, line 1, delete "2." and insert in lieu thereof "4."

On page 4, section 3, lines 1 through 7, delete section 3 in its entirety and insert in lieu thereof:

"5. This act shall take effect immediately and the refunds herein authorized shall be allowed for the reporting period that commenced October 1, 1964."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 4, 1964.

SENATE BILL No. 223

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 223, with my objections, for reconsideration.

Every municipality of New Jersey is now authorized by statute to install and maintain its own sewage disposal system. Toward that end, the municipalities may acquire public or private property by condemnation for purposes of construction and other improvements. Senate Bill No. 223 would further extend the municipal power in this area by providing that:

> "For the purpose of such construction, and before determining upon a final route or location for such proposed improvement or works, the municipality may, by its engineers, agents and servants, lawfully enter upon any lands, waters, or premises for the purpose of making surveys, borings, soundings, and do all necessary preliminary work, doing, however, no unnecessary damage or injury to private or other property."

My objection to this bill lies in its stricture against "*unnecessary* damage or injury to private or other property." By implication, this language would seem to permit the infliction of "necessary" damage or injury upon such property, with no requirement that the damage be repaired or that the owner of the property be compensated therefor.

While it may well be in the public interest to permit municipal entry upon private property for the purposes specified by the bill, there is no sound reason why individual property rights should be subjugated to the extent of allowing municipalities to walk away from whatever actual injury to property may result from the exercise of that right of entry. This is particularly true since, by statute, the operation of a municipal sewage system has many of the earmarks ordinarily associated with private enterprise. Indeed, the overall statutory scheme has impelled the

Supreme Court in a related context to classify municipal sewage disposal as a proprietary rather than a governmental function. *Cloyes* v. *Delaware Township*, 23 N. J. 324 (1957). A municipality which avails itself of the right of entry conferred by this bill should have a corresponding obligation to repair any significant injury to property which is caused thereby.

Accordingly, I herewith return Senate Bill No. 223 for reconsideration, with the recommendation that the bill be amended as follows:

> On page 2, section 1, lines 24 and 25, delete "doing, however, no unnecessary damage or injury to private or other property" and insert in lieu thereof "being responsible, however, for any actual damage or injury to said lands, waters or premises".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 235

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 235, with my objections, for reconsideration.

Senate Bill No. 235 would amend the existing law which prohibits the employment or use of any child under the age of 18 years to transport, sell or otherwise deal with certain specified narcotic drugs for an unlawful purpose. It would limit the existing provisions, the violation of which now constitutes a high misdemeanor, to situations where the person who is hiring or employing such a child is addicted to the

use of these narcotic drugs. The bill would then add a new section to the law to provide that if any person who is not addicted to the use of these narcotic drugs employs a child under the age of 18 years to transport, sell or otherwise deal with these drugs, he shall be guilty of a high misdemeanor and shall be punished by imprisonment, with hard labor "for a term of not less than 20 years with a maximum of imprisonment for life."

The obvious purpose of this bill is to provide as severe a penalty as possible for non-addicted persons who would seek to use children to further illicit narcotic activities. I am certain that there is universal agreement that any person who would deliberately misuse children in such a nefarious manner, deserves the severest possible treatment. Indeed, if I were convinced that such activities could be eliminated through the use of harsh penalties, I would be willing to consider the strongest possible measures. Therefore, I am in agreement with the Legislature's desire to increase the penalty for such offenses. This bill, however, does much more than authorize a more severe penalty. It would require the imposition of a sentence of not less than 20 years in every case without regard to any extenuating circumstances that may be present. The use of such a harsh mandatory minimum sentence marks a sharp departure from the practice in all other areas of the criminal law. Even in the case of homicides, juries and judges are presented with a wide latitude in dealing with offenders. Sentences of life imprisonment or death are reserved for those few cases in which the jury determines that the specific acts in question constitute murder in the first degree.

In a sense then, this measure is not so much an effort to penalize the narcotic offenders in question as it is an indication of the Legislature's distrust of the existing system of punishing offenders. By insisting upon an inflexible mandatory sentence of not less than 20 years, the Legislature is declaring its determination not to leave to the judgment of those persons who have the responsibility for dealing with convicted offenders, the discretion to determine the severity of the sentence. Every offender who falls within the ambit of this bill's provisions, upon conviction, would be required to receive such a sentence. This blanket condemnation of the courts and law enforcement officials is an extremely serious change. In my opinion, it should not be

made unless the record clearly indicates that the prosecutors and judges of this State deserve such sharp repudiation.

With this in mind, I have considered every aspect of this problem to determine whether we can justify removing from the hands of our duly appointed law enforcement officers and from the judges of the Court the power to use their judgment and discretion in these matters, a power which will remain theirs in every other area of the law. Since the statement attached to this bill declares that it is "intended to carry out one of the recommendations of the Narcotic Drug Study Commission," I turned first to the report of that commission to find their justification for such an extraordinary recommendation.

*Extent of Narcotics Activity*

The report deals extensively with the narcotic problem during the most recent 10-year period. To support the proposals contained in Senate Bills Nos. 235 and 236, presumably the report should show a significant upturn of activity in this area as one justification for a 20-year mandatory sentence. The report, however, states flatly:

> "There has been no significant increase in narcotic arrests in the State in the period from 1952 through 1962, despite a great increase in the population during this era."

The report further indicates that the total number of cases referred to prosecutors during this period has remained relatively constant, fluctuating through a rather narrow range. Indeed, the actual number of cases referred to prosecutors reached their low point in the period immediately following Governor Meyner's veto of similar mandatory sentence narcotic bills in 1956. While this fact does not disprove the case for mandatory sentences, it certainly does demonstrate that there was no large scale upsurge of narcotic activities following the rejection of similar proposals 8 years ago.

Insofar as the problem of non-addicted peddlers misusing children is concerned, the report is again surprising. It indicates:

> "The predominant cause of the first use of the drug was curiosity. In practically every case that was interviewed by the Commission the user sought the first

use of the drug. Contrary to the thinking of most people, the Commission did not find that a lurking pusher solicited and enticed the narcotic user to start the use of drugs."

It further indicates that out of the more than 200 cases reviewed, only one person appeared to sell drugs purely for a profit and this individual was a mild user himself. As an aside, I would note that the report states that "a very heavy penalty was meted out" to this individual.

*Attitude of Judges and Prosecutors*

Nor has this legislation been sought by the officials most directly concerned, namely the prosecutors and the judges. As to judges, the report indicates that the commission conducted a conference with the Chief Justice of the Supreme Court and approximately 25 judges of the Superior and County Courts in the heavily populated areas most affected by drug addiction. It found:

> "The judges unanimously opposed mandatory sentences and gave very definite reasons for the impracticality of same. Every judge present, including the Chief Justice, felt each case should be determined on its merits and that no two cases were the same."

The viewpoint of the New Jersey judiciary on this subject is not a parochial one. For example, the Judicial Conference of Federal Judges has considered the question of mandatory sentences on numerous occasions since 1953. These federal judges have consistently disapproved in principle those provisions which would require the imposition of a minimum sentence.

At my request, the Attorney General reviewed this matter with the county prosecutors. Their reaction is identical to that of the judges. The prosecutors from the 5 counties in which more than 90% of the narcotic arrests occurred during the past 10 years, unanimously agreed that this bill and companion measures Senate Bills Nos. 236 and 237 were not desirable law enforcement measures. The prosecutors, for example, point out that "President Kennedy's White House Conference on Narcotics explored various approaches and rejected the temptation to solve the problem by recommending long inalterable prison sentences."

One prosecutor expressed better than I can the reason why he has changed his position on the question of mandatory sentences. He stated:

"The punishment provided for in Senate Bill No. 235 should not be mandatory. Until recently I would have been adamantly in favor of a mandatory sentence as provided for in the bill. One specific case changed my mind abruptly. Two young men, freshmen in college at home on vacation, decided that they would try marijuana. One of them went to New York, purchased a half dozen 'weeds,' came back to . . . County, and sold half of them to his friend. They were both apprehended and charged.

"The two young men had never been involved with the law before, and apparently came from excellent families. To have imposed a mandatory sentence in a case of that kind would in my opinion have been a miscarriage of justice. While the facts of this case do not come exactly within the purview of Senate Bill No. 235, the impact of a mandatory sentence in similar cases is obvious."

*Review of Present Sentencing Practices*

Perhaps some advocates of this legislation would argue that the judges who are opposed to mandatory sentence legislation are themselves the very reasons why such legislation is required. In anticipation of such a charge, I explored whether it had been concluded that these judges were failing in their obligation to implement the narcotics laws in an effective manner. I was immediately confronted by the report of the commission which states:

"A review of the sentences imposed by the judges over a two-year period reveals that the judges were not soft in their sentencing of the more dangerous types and in every case they did their very best in attempting to help the victims of these terrible drugs. The exercise of judicial discretion within a sentencing structure which allows for a considerable spread between the minimum and the maximum sentence is more likely to result in the long term incarceration of the individual who is making a personal profit from the narcotic traffic and the individual who contributes to the demoralizing of others with less severe rehabilitative oriented sentences to individuals who are essentially victims of the drug problem."

From my experience as a judge, I am certain that the commission's finding is a correct one. I know of no group which is more dedicated and more devoted to the protection

of the general well-being of the public than the members of our State judicial system.

*Experience in Other States*

In addition, I explored whether the experience in other states with mandatory sentences had established the value of such a program for New Jersey. Since most studies concerning mandatory sentences make reference to the State of Ohio which has stringent mandatory penalties, I again requested the Attorney General to contact the appropriate authorities in that State. We were informed that in Ohio the use of mandatory penalties has resulted in the virtual elimination of the organized distributors or pushers from the State. These individuals have not ceased their activities in Ohio but have withdrawn to the surrounding states to conduct their business. As a result, the Federal narcotics agents in Ohio have been reduced because it is the activities of these individuals which most concern them. I note, however, that New Jersey has never had a problem with this element of the narcotics trade. Because of our location between the cities of New York and Philadelphia, the organized pusher has never deemed it necessary to operate directly in the State of New Jersey. Indeed, this fact is attested to by the report itself which states:

> "The commission has not found New Jersey to be a major source of supply. In every case the supply was bought in New York and brought to New Jersey in small quantities by the narcotics user."

This conclusion was concurred in by the then Deputy United States Commissioner of Narcotics who in September, 1963 stated to a meeting of the county prosecutors that there was no top level organization of the narcotics industry in New Jersey and added by way of explanation:

> "I think that the law here, the state law has always been very effectual in cutting down the narcotic racket over here. Obviously, there is still considerable trafficking in New Jersey. I think this is handled entirely from New York and I don't believe it's necessary for the New York mob to delegate anybody in Jersey to run the Jersey narcotics' racketeering. Frankly, I haven't heard, just like yourself, I don't know of my knowledge of any purely New Jersey-bred racketeer being big in narcotics. I think this all comes from New York City."

This being so, it is interesting to note what the Ohio officials have to state about the effect that mandatory sentences have had upon the type of narcotic problem that is prevalent in New Jersey. In their words:

"As you know, Ohio has the most stringent narcotic laws in the United States, our penalties are almost entirely felony's (sic) with extremely rigid, honorous, (sic) and *mandatory* sentences.

"Virtually the minimum sentence under our laws is three to five years, *mandatory.*

"The effect of this legislation and especially the stiff sentencing has been to, in great part, eliminate the pushers in this state. These illegal sellers of narcotics have left Ohio since they can do business in states surrounding us without the severe penalties of the law in the event that they are arrested. The pushers have been reduced to such an extent that the Ohio Branch of the Federal Narcotic Agents was reduced by 80%. Where there were ten, there are now simply two agents in Ohio.

"This does not, however, mean that the addicts have left. They are still present having their roots here and they subsist on illegal narcotics when they can get them from pushers, forge prescriptions, robberies of pharmacies and physicians offices for narcotic drugs, the occasional illegal pharmacist or practitioner who will sell either prescriptions or drugs, and makeshift, stop gap, approaches such as paregoric, and if that is not available, tranquilizers and barbiturates.

"We have found that the mandatory sentencing aspect of our laws makes it extremely difficult to enforce them. Quite often a court in an effort to render justice, must in the face of the facts pick a whole (sic) in the law to find the man innocent. If the sentence had been left to the judge, he would probably have found the defendant guilty and fine him or sentence him to a short time, but where a sentence of guilty brings a mandatory sentence, I find that generally the courts are opposed to this infringement upon their freedom of selection and they tend to resent it, and they tend to pick holes in the law which are then loopholes for anyone else who wishes to use them."

*Jury Nullification of the Law*

Still another problem is whether the deterrent effect of a bill such as Senate Bill No. 235 would be nullified by juries because the punishment could not be related to the offense. Unquestionably, juries would be implored to acquit offenders in every appealing case because of the severity of the penalty. Some prosecutors have expressed the fear that penalties as severe as a mandatory 20-year sentence would make it extremely difficult to obtain convictions in cases where otherwise punishment would clearly be merited.

The problem of jury nullification of the law is neither new nor novel. It has been said that the shopkeepers of England petitioned Parliament for the repeal of the numerous English laws imposing the death penalty for shoplifting and other property crimes, not from any humanitarian sense, but from a realization that juries were refusing to convict the thieves. As Arthur Koestler notes in his famous book *Reflections on Hanging,* the petitions followed the line that "archaic severity of the law made its enforcement impossible, and thus destroyed its deterrent effect; and that in the interest of public safety, milder punishments should be imposed." (p. 25)

While Senate Bill No. 235 obviously cannot be equated with the measures that were in existence during the period referred to by Mr. Koestler, the parallel is there and the inference to be drawn therefrom is inescapable.

It would seem, therefore, that from any aspect mandatory sentences, although deceptively appealing in appearance, will not improve law enforcement efforts and aid, in any way, the real battle against the illegal use of narcotics. While these bills are well motivated, they stem perhaps from a sense of nostalgia for a simple solution to a frustratingly complex social dilemma. If we will be candid for a moment with ourselves, however, we must admit that the narcotic problem cannot be blamed upon nameless prosecutors and judges who are not doing their duty; that the solution to our ills is not to be found in locking away forever an element of our society. Indeed, the Legislature's adoption of the Narcotic Drug Study Commission's recommendations as embodied in Senate Bill No. 210 represents such a moment of candor.

We are not divided in our desire to confront and defeat this problem. Let us remain united in our determination

to employ those methods which will assist our efforts in this field whether such effort concern rehabilitation or law enforcement.

I would, therefore, suggest that the mandatory aspects of Senate Bill No. 235 be deleted and in their place a penalty provision inserted providing for a term or not more than 30 years except in those instances where the jury itself recommends life imprisonment. In such cases, the penalty would be imprisonment for life. I believe this proposal will provide for the necessary discretion to prevent a miscarriage of justice while preserving to the people, as typified by the jury system, the power to invoke a most severe penalty in deserving cases.

I have also suggested certain amendments to make it clear to whom the phrases relating to addiction or non-addiction to drugs apply.

Accordingly, I return herewith Senate Bill No. 235 for reconsideration and with the recommendation that the bill be amended as follows:

On page 1, section 1, lines 3 and 4, delete "who hires, employs or uses any child under the age of 18 years,".

On page 1, section 1, line 6, after "marihuana," insert "and who hires, employs or uses any child under the age of 18 years".

On page 1, section 2, lines 1 and 2, delete "who hires, employs or uses any child under the age of 18 years,".

On page 1, section 2, line 3, after "marihuana," insert "and who hires, employs or uses any child under the age of 18 years".

On page 1, section 2, lines 5 and 6, delete ", with hard labor for a term of not less than 20 years with a maximum of" and insert in lieu thereof "for not more than 30 years except upon the affirmative recommendation of the jury of life imprisonment in which case the punishment shall be".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL NO. 276

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 276, with my objections, for reconsideration.

This bill would amend the act which authorizes counties, municipalities and school districts or agencies thereof to provide group plans of life insurance and hospital and accident insurance for their employees and their dependents. In the recent case of *Riddlestorffer* v. *Rahway,* 82 N. J. Super. 36 (Law Div. 1963), it was held that this act did not permit such local units to enter into contracts to provide life insurance and health benefits coverage for elected or appointed officials or for retired employees. Since a great many of our local units have existing contracts more extensive than that permitted under the present law, this bill has been advanced to ratify the existing practices.

I am in complete agreement with the Legislature's desire to clarify the law on this subject, and to validate existing contracts. I am not certain, however, that the Legislature, in its zeal to preserve all of the contracts now in existence no matter how extensive or far-reaching, gave full consideration to the basic question as to the extent of the obligation of governmental employers to provide benefits for their employees.

For example, this year the State Employees' Health Benefits Act has been extended and its provisions have been made available to all local employers. (Chapter 125, P. L. 1964). Under the provisions of this act, the benefits which are available to active employees are carefully specified by statute and the necessary administrative discretion has been vested in a single agency, the State Health Benefits Commission. In addition, this law clearly limits the benefits which may be extended to retired employees and their dependents and provides for minimum financial participation by retired employees.

In the face of such a careful and limited extension of benefits on the one hand, it would seem rather incongruous

to adopt Senate Bill No. 276 which would require every local employer (and there would be in excess of 1,200 such local employers) to grapple individually with the problem of benefit coverage not only for active but also retired employees without the assistance of a single legislative standard.

Nevertheless, I recognize that there are contracts now in existence and that it is not possible, at this time, to rewrite the law concerning employee benefits for the purpose of achieving uniformity of treatment. I do recommend, however, that copies of any future contracts be filed with the State Health Benefits Commission which would have the responsibility of reviewing these contracts and reporting to the Governor and the Legislature periodically its recommendations for achieving uniformity of benefits and treatment of employees throughout the State.

Although it is not possible at the present time to require the uniformity of treatment, any legislation which is enacted to modify the situation created by the *Riddlestorffer* case should set forth some minimum standards and limitations concerning retired employees to guide our local employers. I recommend that standards similar to those set forth in the Public and School Employees' Health Benefits Act be adopted.

In addition, I believe that the provisions of this bill should provide specifically for the validation of existing contracts, provided that they comply with the new provisions, so that no possible misunderstanding can arise as to the rights of employees under these existing contracts. As Senate Bill No. 276 is now written it is conceivable that any existing contracts would have to be renegotiated. Such a result should be avoided.

Finally, I recommend that the provisions which authorize the deduction from a retired employee's pension of his share of the cost of any coverage be eliminated. The Division of Pensions is responsible for the administration of the State's major pension systems. They have indicated that by virtue of the great number of contracts in existence and the large number of carriers writing such coverage that it would be administratively impossible for them to assume the responsibility implied by this provision. According to their records, there are more than 806 local employers providing some form of health benefits protection for more

than 140,000 employees. This coverage has been placed with approximately 50 different authorized carriers.

Accordingly, I herewith return Senate Bill No. 276 for reconsideration and recommend that it be amended as follows:

On page 1, Title, line 1, after "amend" insert "and supplement".

On page 2, section 1, line 22, delete "A" and insert in lieu thereof "(A) Any"

On page 2, section 1, line 22, after "thereof" insert ", herein referred to as employers,"

On page 2, section 1, lines 28 and 29, delete "municipality, county, school district, or agency thereof" and insert in lieu thereof "employer".

On page 2, section 1, line 35, delete "retired employees and".

On page 2, section 1, line 35, after line 35 insert the following new subsection:

"(B) The coverage of any employee, and of his dependents or family members, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment subject to such provision as may be made in any contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence or lay off, and for continuance of coverage after retirement."

On page 3, section 2, line 13, delete "The municipality, county, school district or agency thereof" and insert in lieu thereof "(A) Any employer entering into a contract pursuant to the provisions of section 1 of this act".

On page 3, section 2, line 18, delete ", pension".

On page 3, section 2, line 20, after line 20 insert the following new subsection:

"(B) The continuance of coverage after retirement of any employee may be provided at such rates and under such conditions as shall be prescribed in the contract provided, however, that the retired employee shall

be required to pay an amount not less than the total amount which would have been required to have been paid by him and his employer for the coverage maintained had he continued in employment. The contribution required of any retired employee toward the cost of such coverage may be paid by him to his former employer or in such other manner as the employer shall direct.''

On page 3, section 2, line 21, before ''Nothing'' insert ''(C)''.

On page 3, section 2, lines 21 and 22, delete ''the governing body of any municipality, county, school district, or agency thereof'' and insert in lieu thereof ''an employer''.

On page 3, section 2, line 23, delete ''on such group or groups'' and insert in lieu thereof ''attributable to such contracts''.

On page 3, section 2, line 23, after line 23 insert the following new sections:

''3. It shall be the duty of the executive officer of any employer who hereafter enters into a contract pursuant to the provisions of this act to file a copy thereof with the State Health Benefits Commission. The Commission shall prepare and file periodically and not less than every 2 years, a report to the Governor and the Legislature as to the contracts being entered into by employers under the provisions of this act and shall make such recommendations concerning such contracts and the coverage thereunder as it deems appropriate to achieve uniformity of coverage and benefits for employees throughout the State.

''4. (A) Any contract heretofore executed between an employer and an authorized insurer which would be valid under the provisions of this act is hereby validated and confirmed notwithstanding that such a contract may not have been authorized or properly entered into under the provisions of the act of which this act is amendatory and supplementary.

''(B) Any contract heretofore executed between an employer and an authorized insurer which would be valid under the provisions of this act except for the provisions of section 2 (B) hereof, requiring the payment of premiums by retired employees, is hereby

validated and confirmed but such contracts shall not be renewed or extended unless they are amended or modified to be in accord with the provisions of this act.

"(C) It shall not be a defense to the payment or satisfaction of any claim for benefits under any contract or policy validated and confirmed by the provisions of this act that such contract or policy was ultra vires, improperly entered into or otherwise not authorized by law."

On page 3, section 3, line 1, delete "3." and insert in lieu thereof "5."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 284

*To the Senate:*

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 284, with my objections, for reconsideration.

This bill would validate the actions of a school district which, at a special meeting or election, authorized the issuance of any bonds or other obligations of the school district notwithstanding that the notices relating to such meeting or election were not published prior thereto as required by R. S. 18:7–15.

Senate Bill No. 284 is intended to remedy a defect that arose when Little Egg Harbor Township held a special district meeting and election on July 9, 1963 to authorize the issuance of bonds for the construction of an addition to the local grade school. Although R. S. 18:7–15 requires

that any such special meeting or election be advertised at least one week prior to the holding of such a meeting or election, the required notice advising that such a special meeting was going to be held was published only six days prior thereto. This type of defect has been the subject of many validating acts. Val.: 8–6.67; 8–6.78; 8–6.98.

The present measure, however, is not limited to remedying such a shortcoming but would validate the proceedings notwithstanding that no notice at all was published prior to the special bond meeting. It is neither necessary nor desirable to adopt such broad language.

Accordingly, I herewith return Senate Bill No. 284 for reconsideration and recommend that it be amended as follows:

On page 1, section 1, line 8, delete "15 of chapter 7 of Title 18" and insert in lieu thereof "18:7–15".

On page 1, section 1, line 8, after "however," insert "that notice of such meeting, or election as required by said section 18:7–15 was published at least 6 days prior to the holding of such meeting, or election in a newspaper circulating in the district, and provided further".

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

STATEMENT

ASSEMBLY BILL No. 404

I am filing Assembly Bill No. 404 in the State Library without my approval.

This bill is directed toward the situation in the Matawan Regional School District and would change one of the

alternative bases for the apportionment of the respective amounts to be raised by constituent school districts for the support of their regional school districts, from "average daily enrollment" to "the number of pupils enrolled on the last school day of September of the current school year." The measure was passed by the Legislature in its original form on May 18, 1964. Because this bill would have amended the same section as chapter 106, P. L. 1964, I found it necessary to return the bill to the General Assembly for reconsideration on June 22, 1964.

It has been brought to my attention, however, that this bill could have the immediate effect of shifting approximately $63,000.00 in tax costs from the Borough of Matawan to the Township of Matawan. Thus when the measure was repassed by the Legislature with my recommendations on December 17, 1964, I felt that I could not properly approve it before consulting the affected municipalities. Accordingly, I requested the sponsors of the measure to have both bodies furnish me with statements of their respective positions on the bill.

It appears that the municipalities presently find themselves unable to agree as to whether Assembly Bill No. 404 should be signed. The Mayor of the Township of Matawan, for example, points out several reasons why the proposed change would not be equitable. He cites the fact that the Borough achieved a reduction of its school tax rate in 1962 as a direct result of the regionalization of the school districts. He also notes that the Township was successful in having home developers in that community construct a school worth approximately $1,250,000.00 for which the Township received no credit. Finally, the Mayor points to the fact that both communities agreed to enter into the existing cost arrangement on the basis of the present law. The Mayor does indicate that a mutually satisfactory resolution of the impasse might be formulated upon further conference and negotiation.

On similar past occasions, I have instructed my legal staff to work with the interested parties toward an acceptable accommodation of their interests, and such efforts frequently have been successful. Ordinarily the same course would have been followed in this instance.

The bill, however, was presented to me for disposition by the Speaker of the General Assembly on December 22, 1964.

Under Article V, Section I, paragraph 14(b), every bill which is repassed with the Governor's recommendations "shall become a law only if he (the Governor) shall sign it within ten days after presentation." This required me to act upon the bill by January 2, 1965.

It has not been possible in this short period for me to resolve the fundamental differences that exist between the two communities most directly affected. In the absence of an agreement and in the face of the specific objections raised by the Township, I do not believe that it would be appropriate for the State to dictate a revised cost sharing formula for the regional school districts. Any change in the basic cost structure should be preceded by a common understanding. Unfortunately, none seems to exist here and time precludes me from seeking to bring about such an understanding.

I am therefore, filing this bill in the State Library.

Respectfully,

RICHARD J. HUGHES,
*Governor.*

Dated: January 4, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 60

STATEMENT

I am filing Senate Bill No. 60 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would have reapportioned large county boards of chosen freeholders on a basis providing for more popular representation than is now afforded by law. The existing system of representation on large boards gives one member to each township and, in counties with a population between 75,000 and 200,000, one member to each borough containing not less than 2,300 inhabitants, without regard for the populational disparities among the townships and boroughs which constitute the units of representation. Senate Bill No. 60 would have altered this system to provide one member for each township having less than 9,000 inhabitants; one member for each borough with a population between 2,300 and 9,000; two members for each township or borough having a population between 9,000 and 17,000; and three members for each township or borough with a population of 17,000 or more. The bill also would have given one representative to districts of two or more boroughs where each has a population of less than 2,300 but which have a combined population exceeding 3,800.

This measure passed the Legislature on May 18, 1964. On June 15, 1964, the United States Supreme Court held in a decision of first impression that the Fourteenth Amendment to the United States Constitution requires that all state legislatures must be apportioned on a population basis. *Reynolds* v. *Sims*, 377 U. S. 533, 12 L. Ed. 2nd 506 (1964). This ruling subsequently was applied by the New Jersey Supreme Court to invalidate our present system of legislative representation and to necessitate reapportionment of the Legislature on the basis of population. *Jackman* v. *Bodine*, 43 N. J. 453 (1964).

As an extension of these developments, court actions have been instituted in several counties to require the reapportionment of freeholder boards according to population. At issue is the question of whether the recent decisions concerning legislative apportionment should apply with equal force to county boards of chosen freeholders. These cases are now pending.

In such circumstances, I believe that it would be the wiser course to await the decision of the courts before undertaking to enact legislation on this subject. Although Senate Bill No. 60 would have introduced population as a substantial factor in the apportionment of large boards, the bill would not have established population as the paramount and controlling consideration and, therefore, would have

fallen short of the relief being sought in the current judicial proceedings. My approval of the bill at this time would only serve to confuse the issue and might constitute an unwarranted intrusion upon the deliberations of the courts. If such legislation still is considered necessary or desirable after the pending cases have been decided, I shall then be glad to entertain it.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 97

STATEMENT

I am filing Senate Bill No. 97 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances, there is no provision for a veto but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Senate Bill No. 97 would have stipulated that State assistance for dependent children henceforth shall be available only if (1) the child has resided in the State for at least one year immediately preceding the grant of such assistance or (2) the child lives with a parent or other relative who resides in this State and has so resided for at least one year prior to the birth of the child. The second qualification would have been subject to relaxation upon a determination that the parent or other relative "did not come into this State for the purpose of receiving assistance for dependent children."

As is customary in reviewing all passed bills pertaining to federally assisted welfare programs, my counsel first sought to ascertain whether Senate Bill No. 97 would affect the eligibility of this State for continued federal aid in the administration of our child assistance program. In this connection, the Department of Health, Education and Welfare has indicated that the residency requirements of Senate Bill No. 97 in their present form might be at variance with controlling federal standards, and thus could disqualify the program from further federal participation. Specifically, that Department is of the opinion that the alternative requirement that the parent or relative must have resided in the State for one year prior to the child's birth constitutes an unreasonable classification which fails to satisfy federal law. It is pointed out that under this classification, technically a former resident who lived in New Jersey for a year preceding the birth of his child could return to the State at any time and be immediately eligible to apply for assistance to the child, while a similarly situated person who brings his child into the State for the first time must wait one year. Additionally, the Department has questioned the provision which authorizes a waiver of the residency requirement in the case of a parent with less than one year of residence, but does not permit a similar waiver in the case of a child who has resided here less than one year.

In view of the federal objections and the resulting possibility that Senate Bill No. 97, as drawn, could result in a withdrawal of vital federal assistance to this important program, I am filing the measure without my approval. A new bill undoubtedly can be prepared to satisfy the requirements of federal law. It should be noted, however, that many reputable organizations and individuals have expressed strong opposition to the merits of the residency requirement contemplated by Senate Bill No. 97. I would suggest, therefore, that the proponents of this measure consult with these citizens and give due consideration to their objections before undertaking to pass any future legislation on this subject.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 167

STATEMENT

I am filing Senate Bill No. 167 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Senate Bill No. 167 would have required all tickets sold in New Jersey for passage aboard any vessel, and all advertising matter pertaining thereto, to identify clearly the country of registry of that vessel.

Subsequent to the passage of this measure, a replacement bill was introduced with the cooperation of the sponsor and was passed by the Legislature as Senate Bill No. 412. I signed this bill into law on December 22, 1964, as *P. L.* 1964, *c.* 230. In view of such action, further consideration of Senate Bill No. 167 has been rendered unnecessary.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 229

STATEMENT

I am filing Senate Bill No. 229 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would amend the law establishing the Essex County Pension System to provide for a more liberal retirement provision for persons who have served in the employ of the county continuously or in the aggregate for a period of 30 years. Such persons would be permitted to retire at age 55 on a full pension. Present law would require their retirement at the age of 60. The Essex County Pension System was closed to new members under the provisions of Chapter 191 of the Laws of 1960. This action was taken because of the financial problems of the system and it is questionable whether the system is now on an actuarially sound basis. I have discussed this legislation with representatives of the pension commission as well as membership groups. Because of the financial condition of the system, I felt that such a liberalization of benefits should not be approved unless the cost of these benefits is expressly provided for. Senate Bill No. 229 makes no provision for such cost.

For this reason, I have requested the Division of Pensions to consult with the appropriate representatives from the pension commission and other county groups to determine whether legislation can be prepared which would provide the benefits desired but which would also make any necessary amendments in the benefit and contribution schedules which would place this system on a sound basis. I am hopeful that such a measure can be developed and placed before the Legislature during the current session.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 247

STATEMENT

I am filing Senate Bill No. 247 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

This bill would amend the section of the law concerning alcoholic beverages which permits any municipality to issue a new alcoholic beverage license to a person who operates a hotel containing 50 sleeping rooms or more notwithstanding the fact that the municipality might otherwise have issued its full quota of liquor licenses. This bill would increase the number of rooms required to be qualified under this exception from 50 to 100 rooms.

There is no statement of purpose attached to this bill nor were any hearings held to establish the reasons why this change in the alcoholic beverage control laws is required. The legislative record does indicate that the bill as originally introduced by the Senate sponsors would have imposed its increased restrictions upon the issuance of liquor licenses without preserving any licenses which had heretofore been issued to establishments having between 50 and 100 sleeping rooms and such changes would have taken effect immediately. Apparently both Houses felt that this approach was too arbitrary. The Senate insisted upon one amendment which postponed the effective date until the beginning of the year. The Assembly, thereafter, insisted upon the insertion of an amendment which would at least preserve the rights of holders of any licenses issued heretofore pursuant to the existing provisions of this law. Even with this modification, this bill received only the barest minimum in the Assembly of 31 votes while 25 votes were cast in opposition.

In the absence of any legislative explanation for this bill, I undertook to determine from the businesses affected the reasons for this legislation. I directed my staff to correspond with representatives of the retail liquor groups as well as persons associated with the hotel and motel industry. As a result of my inquiries, I have received in excess of 100 letters on this subject. The proponents of this measure have sought to justify it upon the grounds that it is "fully consistent with the limitation of licenses in accordance with the public policy of the State of New Jersey." A review of the correspondence from the various retail liquor groups, however, indicates rather clearly that the primary force behind this legislation is a desire on the part of these groups to eliminate an area of business competition rather than any interest in a limitation on the distribution of alcoholic beverages or the elimination of undesirable competitive practices.

Such an attitude on behalf of the retail beverage associations is quite understandable. Every special interest group has a right to seek the enactment of legislation which is most favorable to its interests. The Legislature, however, should not encourage such special interest groups in their efforts unless such measures are also clearly in the public's interest. For legislators, unlike the members of a special interest group, are obligated to seek out and determine what is best for the public rather than that which is most beneficial to any particular economic group. After a careful consideration of all of the facts, I have failed to find any justification for this type of legislation. Without any perceptible separate benefit to the public, it caters to the interest of a group whose economic interests are now well insulated.

For instance, in the past, I have approved several measures concerning the retail liquor industry. I approved a bill which restricted to no more than two the number of licenses which could be held by any person. The effect of this legislation was to reduce the growth of chain merchandising. Unquestionably, this legislation was of value to existing retail liquor establishments but I felt then and I remain convinced that it was also in the public's interest to reduce or eliminate the merchandising techniques and pressures that were beginning to be generated by chain liquor stores. Such competitive pressures have no place where alcoholic beverages are concerned. Indeed, when this law was attacked by the chain stores, I directed my Counsel

to defend this legislation and ultimately this law was upheld by the State's highest court.

Here, however, I cannot perceive a similar overriding public interest which could justify the advantages which would be granted to the retail liquor establishments seeking this change. Indeed, if anything, the interest of the public would be adversely affected by this legislation.

Insofar as competition is concerned, the New Jersey State Hotel-Motel Association indicates that only 114 licenses are now outstanding in the hands of their hotel and motel members and, many of these licenses were obtained without resort to the special 50 room provisions here under consideration. In addition, despite the pressure generated by the consideration of this legislation, only 21 new licenses were granted to hotels or motels over 50 rooms during the period from July 1, 1963 until September 30, 1964. Considering the fact that there are now outstanding more than 12,000 retail liquor licenses, it is apparent that the relatively few licenses issued to hotels and motels under the existing exemption provisions could have only a minimal effect upon the entire retail liquor industry. Certainly, such competition could not begin to generate the economic instability which was threatened to that industry by the rise of chain merchandising.

Although these licenses are few in number, they are extremely important to the growth of the hotel and motel business in this State. New Jersey has long boasted that its greatest business is the resort industry. The continued growth of this industry is dependent, in large part, upon the construction of new hotels and motels, and unquestionably a major factor in determining whether a new structure should be erected is the availability of a liquor license. Such a license often means the difference between a successful or an unsuccessful hotel enterprise. Hotels and motels are equally important to the newly developing areas of the State. Here again, their construction, which often occurs along established highway routes in rural areas, is dependent upon the availability of a liquor license. In many instances such licenses can only be obtained through resort to the exemption provision of the law.

I have been informed by the New Jersey State Hotel-Motel Association that the present trend is toward the construction of motor inns under 100 rooms. As of several

months ago, 21 hotels and motels were proposed for construction in New Jersey and more than 50% of these were to be less than 100 rooms. The association has further stated their conviction that "this trend of proposed construction would be all but stopped with the increase from 50 rooms to 100 rooms" as proposed by Senate Bill No. 247. Such an occurrence would be a serious blow to the continued development of an extremely important industry in this State without any compensatory benefit to the public.

For this reason, I have determined that it would be against the public's interest to approve Senate Bill No. 247.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 269

STATEMENT

I am filing Senate Bill No. 269 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Senate Bill No. 269 would have effected certain amendments to the Tax Sale Law. Most of the proposed changes are technical in nature and appear to be unobjectionable. There are several features of the bill, however, which I do not consider to be in the public interest.

First, this measure would have provided that the existing requirement of a Superior Court foreclosure action to bar the redemption rights of idiots and infants henceforth would apply to protect only "known" idiots and "known"

infants. Under this amendment, an idiot or an infant whose identity is not "known," presumably to the person seeking foreclosure, could be barred from redemption by ordinary service of notice. Such a provision would run counter to the wise and long-standing legislative policy of affording maximum protection to the property rights of persons who, by reason of tender age or mental disability, cannot effectively protect their own interests without adequate legal safeguards. In addition, the amendment sets forth no standards by which a status of "known" idiocy or incompetency is to be determined, or by whom, and thus would be unworkable from a practical standpoint.

Secondly, the bill would have required in tax foreclosure actions the allowance of "such counsel fees as will encourage the commencement of such actions in the Superior Court, and where the action is contested, in such amount as will be commensurate with services rendered * * *." If this provision was intended to establish a higher standard for the allowance of counsel fees in actions to foreclose tax sale certificates than in other types of litigation, I can discern no basis for such a distinction. In any event, the fixing of fees and costs in all litigation is a function best left to the sound discretion of the courts.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 291

STATEMENT

I am filing Senate Bill No. 291 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legis-

lature. In these circumstances there is no provision for a veto but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

The laws governing descent and distribution of intestate property now permit an illegitimate child to inherit from the mother but not from the father. Senate Bill No. 291 would have removed this disability by providing that an illegitimate child also shall inherit from a father who has died intestate, upon a determination of paternity by a court of competent jurisdiction.

The statement appended to this bill indicates that it was intended to qualify illegitimate children under federal law for social security benefits based on the father's earnings and, more generally, to relieve such children from a legal incapacity arising from circumstances for which they bear no responsibility. This objective appears to be well founded upon recognized principles of social justice, and I am in substantial agreement with the purpose of the bill. In its present form, however, the measure lacks two procedural safeguards which I consider essential to this type of legislation.

First, it is unclear whether the bill as drawn was intended to apply in situations where the putative father died prior to the date of its enactment. Such an interpretation could retroactively thwart the actual intent of a decedent who was content to die intestate with the expectation that the existing law would affect the distribution of his estate in accordance with his wishes, and who might otherwise have written a will to exclude his illegitimate offspring from inheritance. A retroactive interpretation of the bill also might inspire claims against an estate which already has been administered in reliance upon the present canons of descent and distribution. In the interests of fairness and stability in the law, any future legislation on this subject should expressly limit its applicability to cases where the death of the putative father occurs after the effective date of the bill.

Secondly, the bill before me does not specify any limitation upon the time after the death of the putative father within which a suit to establish paternity must be commenced. Thus the action might be brought long after death at a time when the estate assets already have been distributed, or when evidence relevant to the issue of paternity no longer is available. There should be some reasonable

time limitation, perhaps one year after the decedent's death, upon the bringing of such suits.

As stated above, I am by no means unsympathetic to the purpose of Senate Bill No. 291. If a similar measure incorporating the procedural aspects I have outlined should pass the Legislature during the current session, it will receive my prompt and favorable consideration.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE BILL No. 304

STATEMENT

I am filing Senate Bill No. 304 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

Senate Bill No. 304 would have established within the Division of Purchase and Property in the Department of the Treasury a bipartisan State Insurance Commission of seven non-salaried members, appointed by the Governor with the advice and consent of the Senate, to direct all aspects of the State's property and casualty insurance procurement program, with full authority to negotiate all elements of the State's insurance premiums including agents' commissions. This new State agency would have succeeded to the functions now exercised by the Director of the Division of Purchase and Property and the Bureau of Insurance and Special Services in this respect, and would have reported annually on its activities directly and only to the Governor.

In order to appreciate the full thrust of this measure, it is necessary to realize that Senate Bill No. 304 originally was introduced as a companion to a second bill, Senate Bill No. 305, which did not pass the Legislature even though both bills were offered simultaneously as a package proposal by the same sponsor. Senate Bill No. 305 was intended to reduce the premiums paid by the State and its instrumentalities on the purchase of insurance by eliminating brokerage commissions as expenses to be considered by insurers and rating organizations in fixing the rates. Senate Bill No. 304, in turn, was designed merely to implement this reduction in rates by creating a new State agency to negotiate premiums at the lower rates envisioned by Senate Bill No. 305. It is to be stressed that Senate Bill No. 304, the only bill before me, was not intended to have achieved any rate reduction whatever. In view of the obvious inseparability of the two measures, I have deferred acting on Senate Bill No. 304 until it became certain, with the expiration of the 1964 session, that the Legislature would not pass Senate Bill No. 305.

The only "saving" effectuated by Senate Bill No. 304 would have been the elimination of the moderate salaries now paid to the members of the State Insurance Advisory Committee out of commissions upon their replacement by the non-salaried body which the bill would have established. Since its creation in 1944, the State Insurance Advisory Committee has been of invaluable assistance to the Bureau of Insurance and Special Services in the administration of a centralized system of insurance coverage for all departments and agencies of the State government. This committee has aided the Bureau in placing insurance, reviewing and updating coverages, expediting loss settlements, reducing premium costs, improving fire protection and developing a comprehensive program to safeguard the lives of patients and State employees housed in public institutions. The Insurance Advisory Committee is composed of six outstanding licensed insurance brokers selected for their background and *expertise* in the field. Each member receives a salary of $5,000.00 per year and $1,000.00 for office expenses. The chairman, who has served on the Committee since its creation, receives a salary of $10,000.00, plus office expenses. These salaries were fixed by administrative order in 1954 and have never been raised despite a general increase in State salaries since that time. The salaries and

expenses are paid directly out of commissions taken by the State on the placement of fire insurance.

I can find no basis in reason or experience for the replacement of the Insurance Advisory Committee by a politically appointed body with nothing to recommend it except its non-salaried character. In government, as anywhere else, the taxpayer gets what he pays for; services rendered without compensation in so complex and time-consuming a field as insurance placement for the State are likely to be of limited value.

Additionally, I find no merit in the proposal that the new appointees should be selected with regard to political affiliation and subjected to Senate confirmation. The State's insurance program has not been conducted on a partisan basis and will not be so conducted while I am Governor. The chairman of the Insurance Advisory Committee, who originally was appointed by a Republican Governor and has continued to serve with distinction through three Democratic administrations, happens to be a member of the Republican Party and his services have been valued no less for that circumstance. There is too much at stake in this vital and sensitive area to admit of political meddling which could not help but influence the placement of State insurance with favored carriers. Such a practice has not existed, and would not be condoned by this administration.

Moreover, the record of administration of the State's insurance program in recent years effectively rebukes any effort to tamper with the system as it now exists. Prior to August 30, 1962, for example, the State carried $168,690,600.00 worth of fire insurance in 3-year premiums totalling $969,048.00. As a result of the work of the Committee with officials of the Fire Insurance Rating Office, a new plan then became available whereby the State was able to insure its buildings for $206,029,000.00 for reduced premiums of $830,956.00. Even more recently, the Committee was instrumental in securing the fire insurance coverage provided by the Multiple Location Rating Plan, which now enables the State to insure its buildings for $252,345,000.00 at a premium cost of $589,069.00. This progressive saving in fire insurance premium costs has brought us to the point where the State now enjoys a startling 42% reduction in its premiums. The figures speak for themselves, and are no less impressive in other aspects of the State's insurance program.

In all fairness, I must note that the sponsor of Senate Bill No. 304, to the best of my knowledge, has not criticized the overall direction of the insurance program as such. Nor, so far as I am aware, has anyone contended that the six men largely responsible for obtaining an $84,000,000.00 increase in fire insurance coverage at a premium decrease of $480,000.00 during this administration do not collectively earn $35,000.00 per year for services actually performed. As I understand it, the specific criticism of the present insurance program centers around the fact that certain insurance commissions in the past have been distributed not only among the Insurance Advisory Committee for services rendered, but also among certain licensed brokers who have performed no services.

It is true that such distributions customarily were made in previous years pursuant to an interpretation of the law, going back to the administration of Governor Driscoll, which required the State to take full fire insurance commissions and prohibited their return to the General Treasury. However, in keeping with the policy of this administration toward the prevention and elimination of waste and surplus expenditures, the practice has been reevaluated with an eye toward prompt corrective action. Because of revisions of our insurance program, no such distributions were made at all in 1964. Moreover, the Commissioner of Banking and Insurance after consultation with the insurance industry has approved a new Premium Modification Plan which henceforth will permit the State and its instrumentalities to negotiate the reduction or elimination of commissions on fire insurance premiums where the total 3-year premium comes to at least $10,000.00. It is contemplated that under this new plan, the State will receive in commissions only so much as is necessary to pay the salaries and to defray the expenses of the Insurance Advisory Committee. Not only has the problem apparently projected by Senate Bills Nos. 304 and 305 been resolved, but such savings are now available to many counties, municipalities and school districts. I would hope all eligible political units will move promptly to participate in the savings made possible through the Premium Modification Plan.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE JOINT RESOLUTION No. 5

STATEMENT

I am filing Senate Joint Resolution No. 5 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this resolution does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the resolution.

Senate Joint Resolution No. 5 would have authorized a comparative survey by an independent organization of the salaries of "representative jobs" in State government as against similar positions in private industry and the Federal government in this State. The resolution would have undertaken to appropriate the sum of $10,000.00, "or so much thereof as is necessary," to cover the cost of the study.

When this resolution was adopted by the Legislature, I advised its proponents that I could not properly approve such a study without the enactment of appropriate legislation to validate the $10,000.00 appropriation. The New Jersey Constitution specifically provides that "[n]o money shall be drawn from the State treasury but for appropriations made *by law*." *Art.* VIII, Sec. II, *par.* 2 (Emphasis added). Since every "law" must begin with the words: "Be it enacted by the Senate and General Assembly of the State of New Jersey" (*Art.* IV, Sec. VII, *par.* 6), it would seem that only bills, as opposed to resolutions, are "laws" in the constitutional sense, and that an appropriation cannot constitutionally be made by resolution. For this reason I informed the legislative leaders that although I had no objection to the survey envisoned by Senate Joint Resolution No. 5, I would be required to withhold my approval pending the introduction and passage of a bill to authorize the appropriation.

Such a bill was passed by the Assembly and delivered to the Senate on June 22, 1964. This measure, however, received no further consideration and died in Senate committee with the expiration of the 1964 session. In view of this apparent loss of legislative interest in such a study, I now have no recourse but to file Senate Joint Resolution No. 5 without my approval.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,

SENATE JOINT RESOLUTION No. 10

STATEMENT

I am filing Senate Joint Resolution No. 10 (1964) in the State Library without my approval.

Under the provisions of Article V, Section I, paragraph 14(b) of the Constitution, this resolution does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the resolution.

Senate Joint Resolution No. 10 would have directed the Senate and General Assembly Joint Committee on State Audit to make special studies of certain aspects of the State's construction program and rental procedures. The resolution would have undertaken to appropriate $10,000.00, "or so much thereof as may be necessary for the studies hereby directed," to cover the cost of these studies.

For the reasons set forth in my statement on Senate Joint Resolution No. 5, also filed today without my approval, I have substantial reservations as to the constitutionality of an appropriation made by resolution rather than by a bill. Thus when Senate Joint Resolution No. 10 was adopted by the Legislature, I advised its proponents that I could not

properly approve such a project without the enactment of legislation to validate the $10,000.00 appropriation. Although ample time then remained for the enactment of an appropriate bill during the 1964 session, no such measure was ever introduced. In view of this apparent loss of legislative interest in the matter, I am impelled to file this resolution without my approval.

RICHARD J. HUGHES,
*Governor.*

Dated: March 8, 1965.

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 13, 1964.

ASSEMBLY BILL No. 18

*To the General Assembly:*

I herewith return Assembly Bill No. 18, without my approval, for the following reasons:

This bill would add to the present State highway system a portion of Federal Aid Secondary Route No. 236 which extends between County Road No. 29 and County Route No. 35 in Atlantic County. As in past similar instances, I am constrained to disapprove the measure because funds are not available to permit the State to meet its current commitments in this area, let alone to assume new obligations which are incapable of fulfillment.

For some uncertain reason, the Legislature has seen fit to dispense with a fiscal note to this bill. Nevertheless, because of the sharp fiscal impact this bill could have upon State expenditures, I believe it may be valuable to the members of the Legislature to know some of the facts about this bill. The road in question is 3.8 miles in length and is primarily characterized by an abundance of bridges in varying stages of disintegration. There are no less than 10 bridges concentrated within this short span of roadway, or approximately one bridge every 2,000 feet. I am informed that 9 of these bridges were constructed of timber and

are in dire need of repair or replacement. The necessary replacement cost of one particular bridge alone has been estimated at approximately $1,000,000.00. Altogether, the projected capital improvement cost with respect to these bridges would come to $2,210,000.00, while it would require $110,000.00 more in capital outlay to improve the road itself. Additionally, there would be an estimated total annual maintenance cost of $31,500.00 of which $18,500.00 would be devoted exclusively to the maintenance and operation of the bridges. To this extent, it would appear that the primary motivation behind this bill is the desire to achieve a State takeover of obsolete county bridges. The addition of a county road to the State highway system would seem decidedly secondary under this set of facts.

Since there are not sufficient revenues available at this time to effectuate either purpose, I am returning this bill without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT,
JANUARY 12, 1965

ASSEMBLY BILL No. 44

*To the General Assembly:*

I herewith return Assembly Bill No. 44, without my approval, for the following reasons:

As originally introduced, and as conceived by the Riparian Lands Study Commission (created under J. R. No. 11 of 1960) which prepared this legislation, Assembly Bill No. 44 was advanced as a proposed revision of the law of this State pertaining to riparian lands and rights with the general intention "that the cumbersome process of secur-

ing a riparian grant be expedited and that the statutes be made more comprehensible." (*Report and Recommendations*, The Riparian Lands Study Commission, May 6, 1963, p. 9).

There can be little quarrel with the Commission's finding that the accumulation of statutes which have grown out of the ancient development of riparian laws is in need of modernization and clarification. During my administration, I have had occasion to witness the inconvenience and, at times, even hardship that can be experienced during the time consumed by the State's adherence to the safeguarding steps established in connection with the processing of a riparian grant application. I am not unsympathetic to the need for periodic reevaluation of these procedures to the end that this burden might be minimized, consistent with adequate protection of the very real public interest.

Neither is there any doubt in my mind that the difficult questions of title which have arisen with respect to meadowlands properties, largely as a consequence of the application of established legal principles to such properties in recent cases, must be shortly resolved so that the urgently needed development of these areas can safely proceed.

Despite this awareness, however, I am not now prepared to assert, by placing my signature on this bill, that the way to cure the apparent procedural ills is to remove entirely those safeguards inherent in requiring the signed assents of responsible State officials. Even more do I question the propriety of curing individual title defects by a general waiver of the public's rights and interest, without even an effort to determine the value of that interest to the public.

Because there is machinery at hand for an independent appraisal of each of the procedural changes contemplated by this bill, I do not intend to comment upon them individually at this time. In general, my concern goes to the very heart of the bill's approach. We are here asked to replace the twelve member Resource Development Council, which presently can recommend approval of grants, with a five-member Riparian Lands Commission, and to give to this latter Commission the non-reviewable authority to make riparian grants or leases on behalf of the State. The presently required concurrence of the Commissioner of Conservation and Economic Development, the Attorney General and the Governor, and thus the supervision which

they are able to bring to these dispositions of public property, would be eliminated. Gone, too, would be the opportunity for other public officials, for example, the State Highway Commissioner, to note in advance a projected State use of the property and thus avoid the costly necessity for reacquisition by purchase or condemnation at an inflated price.

As Governor, I view with considerable respect the responsibilities attendant upon my oath of office. The functions which have been assigned to the Executive in connection with the disposition of State property are important and, in my view, appropriate. I have not asked to be relieved of the burden of these responsibilities and do not intend to participate in their removal, without some better showing of necessity and some greater assurance of improved protection of the public interest.

One additional aspect of this bill deserves specific mention here. By Assembly Committee amendment, there was added to Section 2 of the legislation proposed by the Riparian Lands Study Commission a definition of "exempt lands" to include any land within the State, regardless of its riparian quality, as to which record title has been held by any person or corporation or by their predecessors in title "for the last past 30 years and which have been assessed for taxes for the last past 20 years." There was also added, at section 111 of the bill, a simple declaration that "the State shall have no title to exempt lands." The solution proposed by this device to our complex meadowlands problems is clear. What is not clear is whether the Legislature had any comprehension of the potential value of the State's interest in such property, an interest it must have assumed in considering the amendment.

My efforts to evaluate these two provisions of the bill caused me to inquire whether the Riparian Lands Study Commission had considered or commented upon such an approach. It is worth noting here that in its Report, addressed to the Legislature, at pages 9-10, that Commission said:

> ". . . It will be further noted that no definition of the term riparian lands is given. The reason is that it was the feeling of the Commission that *the Legislature could not constitutionally either extend or limit the ownership of the state in the riparian lands* by this

> legislation. Under Article 8, Section 4, Paragraph 2 of the Constitution of 1844 the Fund For the Support of Public Schools was set apart as a perpetual fund, inviolate against invasion or appropriation in any manner by the Legislature. Under Chapter 71 of the Laws of 1894 and Chapter 1, Section 168 of the Laws of 1903, continued as R. S. 18:10–5 all of the tide lands of the state have been placed in the School Fund. Unquestionably in view of the decisions in *Henderson v. Atlantic City*, 64 N. J. Eq. 583 (Ch. 1903) and *In Re Camden*, 1 N. J. Misc. 623 (Sup. Ct. 1923) any statute which limited the state's interest in any lands flowed by tidewater as that interest was defined at common law would be unconstitutional . . . Accordingly the Commission felt constrained to leave the definition of a riparian lands (sic) in the position that the courts have left it at common law. The Commission has not ignored the request that some clearer and easier to apply in practice definition be given; it simply cannot comply with the request." (Emphasis added.)

We have not been provided with a specification of any legitimate basis upon which disregard for this clear admonition, backed by three years of study, can be justified. We are not, I submit, presently in possession of sufficient information to properly make the ultimate decisions called for by this legislation.

There is a means available by which we can gather much of that information. In December, 1963, I participated with the Legislature in the creation of the Commission to Study Meadowland Development (J. R. No. 8 of 1963). We assigned to its members the duty:

> "to make a comprehensive study of the meadowlands of North Jersey for the purpose of developing a long-range comprehensive plan for the reclamation and development of the entire meadowlands area. The commission is further authorized to study and inquire into any subject or matter deemed by the commission to be relevant to the purposes of its study or helpful to it in the consummation of its work."

Additionally, the Commission was authorized to include in the report it will submit, prior to June 30, 1965, any "specific changes or additions to the statutory law relating to the reclamation and development of the meadowlands" as it deems appropriate.

Subsequently, the sum of $50,000 was appropriated to that Commission to carry on its assignment. I have been informed that, using a Committee arrangement, this group has embarked on a conscientious effort to fulfill its assignment and has retained competent legal and engineering staff to that end. One worthwhile consequence of this endeavor will be the compilation of statistical data reflecting property valuations in the meadowlands area, thus providing those of us charged with the management of the State's affairs and interests with some estimate of the potential fiscal consequences of legislation such as this.

Because this Commission was assigned, by legislative act, the responsibility to study the meadowland problem, I requested the members of the group to consider Assembly Bill No. 44. They have submitted a report commenting upon the bill in considerable detail. They have noted some of the reservations that I have already expressed in this message. The report, for example, seriously questions whether the portions of Assembly Bill No. 44 which relate to waiving the State's interest in so-called "exempt lands" are valid. The report further indicates the intention of the Commission to deal with the fundamental problem which gave rise to the amendments concerning exempt lands.

Although the Commission obviously does not deem itself capable, at this point, to value the State's interest in riparian and meadowlands that would be abandoned if the approach suggested in this legislation were approved and upheld, it has indicated, with regard to only the Hackensack Meadowlands, that the State may have an interest in property valued in excess of $25 million. Considering the vast areas and meadowlands which exist throughout the State, it is apparent that this legislation would seek to abandon all State claims, from the most secure to the most tenuous, to property worth untold millions of dollars but certainly in excess of $100 million.

At meetings with proponents of this legislation, it was conceded that the formula used for determining what constitutes "exempt lands" results in the eliminating of any State claim to the entire meadowland areas of the State. Indeed it was indicated that this result was intended by the draftsman. Although it was suggested that the formula could be modified to make it clear that the State would maintain its interest in lands which are actually flowed by

waterways, the proponents of this legislation believe the State should surrender its interests in this property.

As sympathetic as I am to the desires of landowners to clarify the uncertainty which exists as to the title to property in the meadowlands area, and as anxious as I may be to promote the development and growth of many of the areas in or bordered by the meadows, I cannot conclude that it would be in the best interest of the State to approve, at this time, legislation which would have such a broad and permanent effect upon the legitimate interests of the State and more particularly the interests of the Fund For the Support of the Public School. I believe it would be poor governmental practice, so soon before the report of the Commission to Study Meadowlands Development is due to take the irretrievable steps contemplated by this legislation.

At the very least, acceptable recommendations for more efficient handling of meadowlands problems would bring into sharper focus the route to clarification of the law with respect to other riparian matters. More than this, however, we may anticipate that this coordinating study will place in the hands of both the Legislature and the Governor the additional information essential to any final and proper resolution of the complex problems before us.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 11, 1964.

ASSEMBLY BILL No. 46

*To the General Assembly:*

I herewith return Assembly Bill No. 46, without my approval, for the following reasons:

This bill amends the law authorizing the Director of Motor Vehicles to seize a motor vehicle when he has reason to believe that it has been stolen or otherwise operated under suspicious circumstances and to dispose of such a motor vehicle through a public sale. The bill would reduce the period of time for such a sale from 90 days to 30 days.

The proponents of this measure have indicated that their primary desire in this legislation is to permit this procedure to be authorized for the sale of motor vehicles which have been abandoned upon the municipal streets and public highways. Because of the limitation of this law to motor vehicles which have been stolen or operated under suspicious circumstances, it is not possible to carry out this intent fully. For this reason a substitute measure, Assembly Bill No. 706, has been prepared and is now before the Legislature. It has my full support.

I am therefore returning Assembly Bill No. 46 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

ASSEMBLY BILL NO. 73

*To the General Assembly:*

I herewith return Assembly Bill No. 73, without my approval, for the following reasons:

Assembly Bill No. 73 would amend the Public Utility Law concerning railroads to repeal the present prohibition against placing freight cars in the rear of a passenger train. This prohibition would be replaced with a provision that no explosives or flammable liquid freight shall be trans-

ported within the State in a passenger train except in conformity with the regulations of the Interstate Commerce Commission.

The prohibition against such mixed freight and passenger trains has existed in this State for more than 60 years. It apparently was adopted as a safety measure. It is now contended that the interests of safety are no longer served by such a limitation on train makeup. There are, however, others, including the organizations of workers whose responsibility it is to operate these trains, who maintain that such a change in the safety policy of this State is unwarranted. Further, the Division of Railroad Transportation has indicated that it does not believe that such mixed trains should be permitted in the case of commuter passenger trains. Finally, the opponents of this bill point out that this proposed law would not even prohibit the carrying of explosives or flammable cargo in a passenger train but merely requires that such a train makeup be authorized by the Interstate Commerce Commission.

I believe that industry generally should not be prohibited by law from making changes and innovations in techniques and procedures which are consistent with modern safety requirements. I do not feel, however, that in face of the objection that has been registered with this office, that the authorization of mixed trains contemplated by this bill is warranted. After so many years of prohibiting such train makeup, the State should retain some degree of regulatory control. I would suggest, therefore, that the Legislature consider vesting such authority in the appropriate State agencies.

Ordinarily, I would suggest the specific changes needed to satisfy my objection. As I have noted, however, with several of the bills that I am returning today, this bill was not adopted by the Legislature until December 17, 1964 and was thereafter delivered to me by the Speaker, thus requiring a decision by me on this bill by this date. It has not been possible to consult with the necessary groups and agencies in this relatively short period of time to work out the required amendatory language.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
April 27, 1964.

ASSEMBLY BILL No. 81

*To the General Assembly:*

I herewith return Assembly Bill No. 81, without my approval, for the following reasons:

This bill would abolish the Office of Milk Industry and assign its functions to a newly established Division of Dairy Industry in the Department of Agriculture. Unlike the Office of Milk Industry, which is headed by a director appointed by the Governor with the advice and consent of the Senate for a term coextensive with that of the Governor, the new Division would be administered "subject to the supervision of the Secretary of Agriculture" by a director to be named by the State Board of Agriculture in conjunction with the Secretary. There is no provision for the continuation in office of the present Director of the Office of Milk Industry as the first director of the new Division for the remainder of his statutory term. The bill would also create a six-member "dairy advisory committee" within the Division of Dairy Industry, consisting of two representatives of the New Jersey Dairymen's Council, two representatives of various milk dealer, handler or processor organizations and two representatives of the general public.

In general, the organizational scheme of the executive branch of State government contemplates the establishment of direct lines of responsibility, with the heads of the various principal departments accountable to the Governor for the workings of their respective departments. The Governor, in turn, is accountable to the public for the performance of his chosen department heads. The unique statutory makeup of the Department of Agriculture, however, reflects something of a departure from the overall pattern. This Department is headed by the State Board of Agriculture, which by law is composed entirely of farmers "recommended" to the Governor by the agricultural industry for appointment to the Board with the advice and consent of the Senate. The Board appoints the Secretary of Agriculture, subject to the approval of the Governor, to serve

as the chief administrator of the Department. Acting in conjunction with the Secretary, the Board also appoints the directors of the various divisions in the Department and most other departmental personnel. The Department of Agriculture, in short, stands alone as the only principal department headed and staffed by the chosen representatives of the particular segment of our economy which it is designed to serve and regulate.

The Office of Milk Industry, though located in the Department of Agriculture, is invested with regulatory powers and duties which reach beyond the specific concerns of the agricultural community to encompass the broader interests of the public at large. This agency is not charged with the responsibility to protect the welfare of the dairy industry alone, but to strike and maintain a delicate balance among the respective interests of the farmer, the processor, the dealer, the sub-dealer and the consumer. For that reason, neither the Office of Milk Industry nor its predecessor agency (the Milk Control Board) has heretofore been subjected to the traditional appointive supervision of the agricultural industry over the Department of Agriculture itself. By the enactment of various statutes going back to 1933, the Legislature has repeatedly expressed the policy that the milk industry is particularly amenable to governmental regulation, including price controls, in the best interests of both the industry and the consuming public.

Recently there has been much popular support for the elimination of price controls. The price control controversy has continued to date, with this sensitive issue being debated and explored in the courts, in legislative debate and in the various studies which have been commissioned to shed light on the problem. Despite the efforts of both the Legislature and myself to arrive at an answer, a long range solution has not yet been agreed upon. When minimum resale price controls were removed in October of 1962, the resulting threats of economic chaos impelled the Legislature to authorize the Office of Milk Industry to establish temporary minimum price levels while conducting certain studies. As a result of these studies and after an extensive public hearing of the interested parties, the Director adopted a new milk control order which was promulgated only two months ago. The effectiveness of this order, from the public's viewpoint, remains to be determined. Adjustments, minor or major in nature, may be required in future months.

Against this background, it does not seem wise at this time to remove the field of milk regulation from the mainstream of direct executive responsibility. A final determination of the proper function of government in this area may well dictate the placement of the Office of Milk Industry on an identical footing with the existing divisions in the Department of Agriculture. Until such a determination is made, however, the Office of Milk Industry should be maintained as presently constituted.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 4, 1964.

ASSEMBLY BILL No. 148

*To the General Assembly:*

I herewith return Assembly Bill No. 148, without my approval, for the following reasons:

Assembly Bill No. 148 would place a financial millstone upon the State highway system by the addition of the portion of Cape May County Road No. 585 which extends over 3.4 miles between State Highway No. 9 at Burleigh and the northeasterly line of North Wildwood.

This bill has a long but unvaried history. It was first vetoed in 1957, at which time the State Highway Department estimated the cost of modernizing this roadway at a minimum of $4 million. The Department has informed me that the cost today would be approximately $7 million, of which the Federal Government would bear no part. This amount represents nearly ⅕th of the total amount requested this year from the Legislature for State highway construction.

When the bill was next vetoed in 1962, I observed that the State was then under statutory direction to take over 1,128 miles of local road for which no funds were available to meet estimated modernization costs of over $2 billion. The gap between commitment and fulfillment has since widened even further. Nevertheless, the Legislature has again seen fit to present me with this measure.

With the passage of this type of bill, the second of this session, the Legislature only puts the cart before a phantom horse which may never materialize to take up its burden. Knowing well that the State cannot begin to afford such expenditures, but refusing even to consider ways and means of meeting the increasingly urgent needs of the State in this and other vital areas, this Legislature apparently is content to merely create the semblance of action and accomplishment. It is one thing, however, to direct the Highway Commissioner to add a local road to the State system. It is quite another to make it possible for him to do so.

Unquestionably, our communities could use effectively additional State assistance for roads, schools and other essential governmental functions. These local needs should be met but not on a basis of political favoritism. The State Highway Department has a master plan for highway improvement. The Assembly Highway Committee has held hearings on this plan and is supposed to issue a report of its findings shortly.

If the Legislature is seriously interested in assisting our communities to meet their highway needs, it should give thought and consideration to the reports of the State Highway Department and its own committees.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 11, 1964.

ASSEMBLY BILL No. 156

*To the General Assembly:*

I herewith return Assembly Bill No. 156, without my approval, for the following reasons:

This bill would amend the chapter of the Uniform Commercial Code concerning bulk transfers of business property to indicate that the terms "creditor," "creditors," or "existing creditors," as used in the Bulk Transfers Chapter, shall mean "business creditors only and shall not include creditors of the transferor who are such creditors by reason of personal or private transactions with the transferor which did not arise out of or in the course of the transferors' business."

The Uniform Commercial Code was enacted in 1961 after an intensive study of the subject by a special study commission which produced a thorough and comprehensive report on the proposed code. One of the major reasons advanced by this group for the enactment of this legislation was the desirability of uniformity of treatment of commercial transactions by the states.

Since this bill was delivered to me by the Legislature, requiring action in ten days, I requested the sponsors to submit certain information concerning this proposal, including the treatment accorded this Chapter by the other states which have adopted this code. The sponsors have indicated that they were not familiar with the law in the other states. A quick but incomplete review of the out-of-state laws by my staff has revealed, however, that 28 states have now enacted the code. Apparently none of these states has restricted the definition of creditor in the manner proposed by this legislation.

In addition, the Uniform Law Commissioners of New Jersey and the National Conference of Commissioners on Uniform State Laws have indicated their opposition to this

proposal. Although these groups recognize that the present provisions may be broader than are entirely necessary, the type amendment suggested by this bill would eliminate protections which have been developed for the benefit of creditors, not only legislatively in the Commercial Code and the laws that preceded the Code, but also through judicial decision. *Chorpenning v. Yellow Cab Co.,* 113 N. J. Eq. 389 (Ch. 1933), *aff'd,* 115 N. J. Eq. 170 (E. & A. 1934).

The Uniform Law Commissioners further point to the danger that may occur from destroying the uniformity of the code's provisions through amendments of the type proposed by Assembly Bill No. 156. They note that:

> "Sales of businesses and notices to creditors will involve companies and people outside the State of New Jersey. If we have a peculiar definition of creditors it not only engenders mistrust of the Bulk Sales chapter of the Code, but all of the balance of the Code insofar as it is the law in New Jersey."

Although it is possible that there may be an approach to this problem that would carry out the intent of this legislation without creating the difficulties perceived by the experts, the time allotted to me to consider this bill does not permit the development of an alternative proposal. In light of the objections which have been raised to this proposal by the groups which are most familiar with the provisions of the Uniform Commercial Code, not only in this State but throughout the nation, I feel I have no alternative but to return Assembly Bill No. 156 to the Legislature without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 162

*To the General Assembly:*

I herewith return Assembly Bill No. 162, without my approval, for the following reasons:

Assembly Bill No. 162 would supplement Title 18 of the Revised Statutes (the school law) to require periodic medical examinations of school bus drivers, to be conducted by each local board of education providing transportation to school children, in the same manner and according to the same standards now applicable to regular school board employees.

Although I agree with the fundamental purpose of this bill, both the Department of Education and the Division of Motor Vehicles agree that such examinations should be held under the supervision of the Director of Motor Vehicles rather than by requiring each local board of education to undertake such an obligation. The medical examination of school bus drivers is essentially a motor vehicle problem and not an educational concern. It should be approached as such.

The bill itself would exempt from examination drivers who possess special licenses issued by the Director of Motor Vehicles pursuant to R. S. 39:3–10.1. This section of the motor vehicle law provides that drivers of commercial buses must qualify for special licenses by passing a stringent examination pertaining to driving ability, previous experience, good character and physical fitness. They must thereafter annually satisfy the Director of their continued qualification to hold special licenses. This section should be amended to encompass school bus drivers, thereby accomplishing what is intended by Assembly Bill No. 162. A substitute measure is being prepared which will accomplish this change. I hope the Legislature will give this measure its prompt consideration.

Respectfully,

[SEAL] RICHARD J. HUGHES,
*Governor.*

Attest:
LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 170

*To the General Assembly:*

I herewith return Assembly Bill No. 170, without my approval, for the following reasons:

The Escheat Act, N. J. S. 2A:37–11, defines escheatable personal property as "moneys . . . and every other kind of tangible or intangible property". Assembly Bill No. 170 would amend this definition to include within the term personal property "moneys deposited with any county welfare board for the account of any person who shall have died leaving no heirs or next of kin or other persons entitled to receive the said moneys."

I have been advised that the proponents of this bill consider the amendment necessary to escheat money which is deposited with the county welfare board for the benefit of an indigent person by his relatives or friends. The escheatable status of such property is said to be ambiguous because it is unclear whether legal title vests in the beneficiary when the deposit is made. Any existing ambiguity, however, stems from the difficulty of determining the intention of the depositor rather than from the uncertainty of the statutory definition of escheatable property. If it is known that the depositor intends an outright gift to the beneficiary, then the money becomes the latter's property and upon his death intestate and without heirs or next of kin it would escheat to the State under present law. Similarly, if it is clear that the depositor intends the fund to revert to himself upon the demise of the beneficiary, then the money would not escheat to the State under either present law or the provisions of this bill.

Assembly Bill No. 170, therefore, does not accomplish any useful purpose and could only serve to confuse further the already complex area of escheat law.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964

ASSEMBLY BILL No. 239

*To the General Assembly:*

I herewith return Assembly Bill No. 239, without my approval, for the following reasons:

This bill would supplement the statutes relating to juvenile and domestic relations courts to open to public inspection all juvenile and domestic relations court records pertaining to the commission or alleged commission of any act by a person under 18 years of age which, if committed by a person of the age of 18 years or over, would constitute a high misdemeanor.

Consistent with the existing legislative policy with respect to juvenile offenders, the rules of court now provide that all juvenile records "shall be strictly safeguarded from indiscriminate public inspection." R. R. 6:2–11(c). The court rules, however, expressly make such records available to judges of the County, Superior and Supreme Courts, the Governor and other designated public officials, and such other persons as the court for good cause may allow to examine them.

Juvenile records invariably are called for and considered in connection with such matters as sentencing, admission to probation, and applications for parole and executive clemency. Thus the present practice, though obedient to the statutory mandate that no accused juvenile offender under the jurisdiction of the juvenile and domestic relations court is to be treated or regarded as a criminal, is designed to protect also the public by assuring that unsuitable persons are not released to walk the streets as a result of official unawareness of their past records as juvenile offenders.

The philosophy underlying Assembly Bill No. 239, as expressed by its statement of purpose, is that "juveniles who are charged with the commission of crimes such as murder, rape, burglary and the like, should be treated the same as adults under similar circumstances." If this thesis repre-

sents the considered judgment of the Legislature, it amounts to a direct repudiation of a long-standing legislative attitude toward juvenile offenders. See *State v. Monahan,* 15 N. J. 34 (1954). Moreover, the bill itself is markedly out of step with the spirit and overall design of the Juvenile and Domestic Relations Court Law, which has been on the statute books since 1929. Under that law, a charge against a juvenile of the age of 16 or over can be referred by the court to the county prosecutor to be dealt with in the same manner as any criminal case, if the juvenile is an habitual offender, or if the offense charged is of a heinous nature and the circumstances are such as to require criminal treatment. N. J. S. 2A:4–15. As to all other juvenile proceedings, however, the act is clear that the accused offenders are not to be treated as criminal defendants for any purpose whatever. In particular, N. J. S. 2A:4–39 has long provided that:

> "No adjudication upon the status of a child under 18 years of age shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall such a child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction.
>
> "The disposition of a child under 18 years of age or any evidence given in the juvenile and domestic relations court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence be held against the child's record in any future civil service examination, appointment or application."

See also N. J. S. 2A:4–2, 2A:4–21 and 2A:85–4.

Thus the rule of court against "indiscriminate public inspection" of juvenile records is only a reflection of an established policy adopted by the Legislature 35 years ago. If the Legislature now believes that a new approach to the problem of juvenile delinquency is warranted, it should carefully review the existing statutory scheme in its entirety, and not merely tuck into the present act a new section which is fundamentally hostile to that scheme. I am certain that most legislators, on further reflection, would agree that it is impossible to reconcile the concept of Assembly Bill No. 239 with the intent of the very act which

it would "supplement", and that a legislative policy of such long standing should not be undone so casually.

While I am by no means unsympathetic to the further development of reasonable deterrents against the commission of serious juvenile offenses, such sanctions should be conceived and applied within the framework of an integrated legislative policy. Because Assembly Bill No. 239 fails to meet this fundamental legislative requirement, I am constrained to return the bill without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES
Attest: *Governor.*

LAWRENCE BILDER
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 242

*To the General Assembly:*

I herewith return Assembly Bill No. 242, without my approval, for the following reasons:

This bill would supplement the motor vehicle law by providing that the driver of a vehicle approaching or about to enter a traffic circle or traffic island shall yield the right of way to any other vehicle already traveling on such circle or around such island.

At my request, this bill has been reviewed and evaluated by several traffic safety experts. They have advised me that in the particular case of traffic circles, the establishment of rigid right-of-way rules is unnecessary and undesirable. The very purpose of traffic rotaries is to induce a smooth and unhindered interflow of vehicles converging from various directions and going their separate ways without undue congestion. This objective presupposes that the vehicles involved must be operated at normal and uniform

speeds in order to merge with, weave across and emerge from the prevailing traffic pattern in a safe and effective manner. If the vehicles approaching the rotary were required to stop or to curtail their speeds sharply in order to "yield the right of way" to vehicles in the circle, the operational pattern would be akin to that of an ordinary intersection and the special advantages of the traffic circle might be lost or seriously impaired. The resulting confusion (see R. S. 39:4–90, governing the right of way at intersections) and potential hazards militate against the imposition of an inflexible right-of-way rule in this area.

If a particular rotary should present problems warranting special traffic controls, there is no reason why "yield right of way" or "stop" signs cannot be erected at the appropriate intersections in accordance with the procedure specified by R. S. 39:4–140. However, I cannot agree to the enactment of an abstract right-of-way rule which would operate to negate the very reason for the existence of the traffic rotary. Consequently, I am returning Assembly Bill No. 242 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

ASSEMBLY BILL NO. 245

*To the General Assembly:*

I herewith return Assembly Bill No. 245, without my approval, for the following reasons:

Assembly Bill No. 245 would amend the Transfer Inheritance Tax Law to extend from 8 to 12 months the period following the death of a decedent during which the transfer inheritance tax on his estate can be paid without interest. This bill also provides for a deferment of interest charges

where, "without default" by the executor or any other person liable for payment of the tax, a statutory notice of assessment and levy has not been given by the State within 11 months after death, in which case interest would begin to run only after the expiration of 30 days following the date on which such notice finally is given.

It is primarily the latter objective which impels my disapproval of this measure. Experience in this area has demonstrated that through no fault of either the testamentary representative or the State, the value of a taxable estate often cannot be established with certainty for a considerable period of time after the decedent's death. There are factors, such as litigation involving estate assets, claims against the estate and the necessity of awaiting federal marital deduction valuations, which frequently delay final settlement of the estate beyond 8 or even 12 months after death. In such instances, interest ordinarily is computed at a lower rate of 6%, rather than the 10% which is charged in cases of delinquency. Since inheritance taxes actually are due and payable at the time of death (N. J. S. A. 54:35–1), the 6% interest rate which attaches upon expiration of the grace period of 8 months is a fair reflection of the fact that the estate continues to enjoy the benefits of revenue belonging to the State. Additionally, the representatives of an estate are entitled to deposit with the State at the time of death or thereafter whatever amount they wish to be applied as a payment on account of any taxes which may be levied, thereby avoiding the payment of any interest on that amount no matter how long it takes to settle the estate.

In view of these considerations, it would be unfair to the State, and unduly advantageous to the taxpayer, to permit the indefinite postponement of interest charges pending the final valuation of every estate. Such a measure also could discourage the existing and prevalent practice, mentioned above, of payments on account of taxes to avoid interest charges. Such payments normally run ahead of assessments in a stable pattern, and a disruption of that pattern might dislocate our present fiscal structure.

Respectfully,

[SEAL] RICHARD J. HUGHES,
*Governor.*

Attest:
LAWRENCE BILDER,
*Acting Secretary to the Governor.*

State of New Jersey,
Executive Department,
November 16, 1964

Assembly Bill No. 261

*To the General Assembly:*

I herewith return Assembly Bill No. 261, without my approval, for the following reasons:

Assembly Bill No. 261 would require all prescriptions for the dispensation of narcotic drugs to be written on special narcotic prescription forms designed by the State Department of Health. The bill would also amend three separate sections of the Uniform Narcotic Drug Law (R. S. 24:18–1 to 24:18–49 et seq.) to require all physicians, dentists, pharmacists and veterinarians, in their dealings with narcotic drugs to write or accept prescriptions only upon such special narcotic forms.

The apparent *rationale* of this bill is that the mandatory use of official forms will effectively curtail the ability of unauthorized persons to obtain narcotic drugs by means of forged prescriptions. While I am sympathetic to any legislation which would contribute to the effective prevention of illegal possession of narcotic drugs, it is doubtful that the special forms envisioned by this bill would add significantly to the existing legal controls in this area. The bill, for example, specifies no procedures for state control over these forms after their distribution by the Department of Health to physicians, dentists and veterinarians. Once in circulation, these special forms could be stolen and forged as readily as any prescription blanks now in use. Assembly Bill No. 261, therefore, would not provide any significant protection to the health and safety of the general public.

There is an additional aspect to this legislation which is disturbing. Assembly Bill No. 261 is directed against the legitimate professional person who must handle narcotic drugs as a part of his everyday responsibility. It does not even purport to reach the criminal element responsible for traffic in narcotics. Yet, it would impose upon such professional persons extremely severe penalties for any violations of the act.

For example, because Assembly Bill No. 261 amends the Uniform Narcotic Law, a physician, dentist or veterinarian who prescribed a narcotic drug upon a form other than a special narcotic prescription form, by reason of that fact alone, would be subject to a "fine not exceeding $2,000.00 and by imprisonment, with hard labor, for a term of not less than 2 years nor more than 15 years", R. S. 24:18–47. In addition any pharmacist who filled a narcotic drug prescription which was not written upon a special narcotic prescription form would be subject to a similar penalty. I cannot believe that the Legislature intends to impose such harsh penalties upon professional persons because of a failure to use a proper form. A fair and literal reading of the provisions of the bill, however, would require such a result.

It should be possible for the Legislature to consider solutions to the problem caused by the criminal use of narcotic drugs without resorting to the adoption of measures so casually prepared as to subject four of our most respected professions to the stringent consequences which could be imposed upon them under the provisions of this bill.

Accordingly, I am constrained to return Assembly Bill No. 261 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES
Attest: *Governor.*

LAWRENCE BILDER
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 308

*To the General Assembly:*

I herewith return Assembly Bill No. 308, without my approval, for the following reasons:

This bill would allow the board of education of any school district to provide, by resolution, for the retirement on

pension of a secretary of the board who has served in such office for 30 or more years on a part-time basis and 10 or more years on a full-time basis and who, by reason of age at the time of his appointment as a full-time secretary of the board, was ineligible for membership in a contributory pension system.

It is questionable whether such a limited pension authorization should be approved. The very few bills of this nature that I have previously signed have affected individuals who otherwise would not have been eligible for a pension notwithstanding long years of faithful service to their public employers. This is not necessarily the result under the provisions of this bill. A person eligible for a pension under the provisions of Assembly Bill No. 308 could also be eligible for a pension under the Non-contributory Pension Act. It is not necessary, however, at this time, to consider the merits of this proposal since the bill contains several technical shortcomings which prevent my approving of it in its present form.

Assembly Bill No. 308 does not contain any standards to guide a school board in awarding a pension to a person qualifying under its provisions. For example, it does not specify the amount or the percentage of salary that could be payable as a pension to a qualified person. Further, it does not establish a minimum age for a person seeking a pension under the provisions of the act. Finally, the bill fails to provide that any person awarded a pension under the provisions of the act shall not be entitled to receive any other pension from his public employer.

For these reasons I am returning Assembly Bill No. 308 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 318

*To the General Assembly:*

I herewith return Assembly Bill No. 318, without my approval, for the following reasons:

Assembly Bill No. 318 reads as follows:

> "Whenever a civil or a criminal action shall have been brought against any person for any act or omission arising out of and in the course of the performance of his duties as a member of a municipal police department and such action results in final disposition in favor of such person, the cost of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, may, in the discretion of the governing body, be borne by the municipality."

N. J. S. A. 40:11–19, however, now provides that:

> "Where a member of any police or fire department is made a defendant in any suit or other legal proceeding arising out of the performance of police or fire duty or out of any incident arising in the line of such duty, the officer, board or body in control of such police or fire department shall provide all necessary legal aid necessary for the defense of such suit or other legal proceeding; *provided,* this shall not apply to any disciplinary or criminal proceeding instituted against such policeman or fireman by the municipality in which he is employed."

A comparison of the two texts reveals that the existing statute already affords far more comprehensive protection to municipal policemen than would Assembly Bill No. 318. This bill would require, as present law does not, that the litigation terminate favorably to the policeman before authorizing the municipality to defray his legal expenses. Such an application of "the wisdom born of the event" would drastically curtail his existing statutory right to legal assistance at municipal expense upon the commencement of

suit, without regard to the final outcome of the proceedings. See *Durkin v. Thomas,* 77 N. J. Super. 311 (Law Div. 1962). Moreover, where N. J. S. A. 40:11–19 stipulates that the municipality "*shall* provide all necessary legal aid," Assembly Bill No. 318 merely states that such expenses "*may,* in the discretion of the governing body, be borne by the municipality." The mandatory obligation now imposed upon municipalities in this respect clearly is more beneficial to the interests of municipal policemen than is the permissive approach envisioned by the bill before me.

I assume that the Legislature, in passing Assembly Bill No. 318, intended to further the welfare of members of municipal police departments, and not to diminish the rights which the law now gives them. If, in fact, the Legislature does wish to reconsider the policy set forth in N. J. S. A. 40:11–19, the legislative proposal should resolve the inconsistency which would otherwise be created through the enactment of a bill such as this.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 11, 1964.

ASSEMBLY BILL No. 359

*To the General Assembly:*

I herewith return Assembly Bill No. 359, without my approval, for the following reasons:

Assembly Bill No. 359 would re-create a Law Enforcement Council consisting of 9 members, of which 3 would be appointed by the President of the Senate, 3 by the Speaker of the General Assembly and 3 by the Governor. The members would be appointed on a bipartisan basis. The bill

specifies in considerable detail the numerous functions, powers and duties of the Council. The scope of this agency's jurisdiction can be seen from an examination of only a few of these powers. For example, the Council is to "examine into and appraise on a continuing basis, the administration, enforcement and operation of all State and local laws, ordinances and regulations relating to crimes and offenses." The Council is also to examine and audit on a continuing basis the performance of all law enforcement agencies at all levels of government and to initiate and conduct such investigation of law enforcement agencies as may in its judgment be required to advise the Governor and the Legislature on the condition of law enforcement within the State. To carry out these responsibilities the sum of $50,000.00 is appropriated.

The predecessor of this proposed Council is best remembered for its excesses, its abuse of power and its vicious demonstration of partisanship. Although this edition of the Council is advanced as a proper exercise of the legislative power to investigate prior to lawmaking, it would possess all of the broad and amorphous powers of its ancestor and, thus, presumably, would be authorized to indulge in equally unjustifiable activities.

Under the grant of authority contained in Assembly Bill No. 359, there is no apparent limit to the jurisdiction of the Council to interfere with and disrupt the activities of the legitimate law enforcement agencies of the State. As interpreted by the prior Council, these powers permit this body to function as a law enforcement group in direct conflict with the duly constituted authorities. While the Legislature is so entitled to obtain facts necessary to intelligent lawmaking, it is not permitted to usurp the law enforcement responsibilities of the other branches of government. The division of powers is clearly set forth in the *New Jersey Constitution,* at Article III, paragraph 1:

> "ARTICLE III
>
> "Distribution of the Powers of Government
>
> "1. The powers of the government shall be divided among three distinct branches, the legislative, executive, and judicial. No person or persons belonging to or constituting one branch shall exercise any of the the powers properly belonging to either of the others, except as expressly provided in this Constitution."

It should be recalled that the powers assigned to this Council are those which were granted to the old Law Enforcement Council when it was an integral part of the Attorney General's Office. Such "law enforcement" powers are not appropriate for a legislative agency.

Even apart from the question of the scope of this agency's jurisdiction, there remains the very real consideration as to whether the Council warrants reconstitution in any form. The original Council was created in the aftermath of the sensational hearings of the United States Senate's Kefauver Committee and the New York State Crime Commission, at a time when public confidence in law enforcement was at an extremely low ebb. Years later, the establishment of the Council in 1952 was characterized by one objective observer as a measure "to satisfy political considerations rather than any executive-administrative needs," and as a "political palliative" to satisfy a growing demand for more stringent law enforcement. *The New Jersey Law Enforcement Council,* 81 New Jersey Law Journal 61, 68 (1958). While I do not propose at this late date to argue that point, it is in any event quite apparent that a comparable situation does not exist today.

The administration of justice in New Jersey now rests upon a firm bipartisan base. The investigatory aspects are lodged not only in the Attorney General's and County Prosecutor's offices but in the local police agencies. The Grand Jury system, which constitutes the bedrock of justice in a democratic form of society, is under the direct supervision of the Assignment Judges who do not reflect political influence.

Shortly before leaving office in 1954, Governor Driscoll was able to inform the Legislature in his seventh annual message that:

> "* * * the services of our Department of Law and Public Safety have been immeasurably strengthened. Our policing agencies are larger, better staffed and better trained; and when judged against the perspective of history, will be found to have done one of the best jobs in the country."

Conditions have continued to improve, and it cannot be seriously contended that New Jersey law enforcement is now wanting in competence and integrity. Additionally, Governor Meyner in 1954 inspired the establishment of a

Criminal Investigation Section in the Division of Law of the Department of Law and Public Safety. This agency to date has functioned most effectively as a criminal investigation unit and as a coordinator and liaison between the 21 county prosecutors and the Attorney General. The Criminal Investigation Section, in short, is performing the proper functions of the former Law Enforcement Council as they were originally conceived. The reestablishment of such a Council would, therefore, cause a wasteful duplication of effort. Any additional funds available for such a purpose should be appropriated to the Criminal Investigation Section.

Finally, I feel obligated to comment upon the obvious motivation underlying this bill. I cannot bring myself to believe that it is designed to accomplish anything more than political mischief on the eve of a gubernatorial campaign. This belief is bolstered by the fact that Assembly Bill No. 359 conveniently provides for the demise of this Council one week before the next scheduled Inauguration Day. The floor debates during the passage of this legislation lend further credence to this suspicion. Reports indicate that the primary sponsor of this bill, when challenged on the floor of the General Assembly to cite a single instance indicating a current breakdown in law enforcement, was unable to do so.

This naked admission is most revealing. The bill is not advanced and justified by its sponsor as a measure necessitated by any existing breakdown in law enforcement. The apparent purpose is an unfounded fishing expedition for political purposes.

I do not intend to lay open the law enforcement agencies of this State to the unbridled attacks of partisanship of which this Council would be capable without some decent justification for such an assault.

If the Legislature has a sincere desire to improve the condition of law enforcement in this State, it has the opportunity to do so through the exercise of its legitimate function, the enactment of laws. Although I have indicated my concern about the actions of the previous Law Enforcement Council, it was responsible for several suggestions with which I would presume no one could quarrel. For example, the Council recommended the enactment of legislation to require that all local law enforcement officials be

adequately trained before attaining a permanent status. They also recommended legislation to provide for uniform crime reports and to authorize the granting of immunity to witnesses for the purpose of obtaining evidence which would otherwise be unavailable. All three of these proposals have been strenuously recommended for more than six years, both by myself and by my predecessor in office. Before the Legislature concerns itself with the re-creation of a Law Enforcement Council, it should give some attention to these recommendations of its predecessor which still await their consideration.

The State does not need traveling circuses and side shows in the area of law enforcement. It needs more and better trained personnel; it needs the modernization of laws to permit these men to carry out their duties in an effective and just manner. The Law Enforcement Council will provide none of these things. If the Legislature will turn its attention from investigation to lawmaking, it can. It is only when it has nothing constructive of its own to offer our citizens that it finds it far easier to investigate than to legislate.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
May 11, 1964.

ASSEMBLY BILL No. 371

*To the General Assembly:*

I herewith return Assembly Bill No. 371, without my approval, for the following reasons:

Assembly Bill No. 371 would authorize the courts to require defendants in matrimonial actions to pay the county probation officer a collection "fee" of up to $0.50 for each installment of alimony or support paid through the county probation office pursuant to court order.

The bill appears to reflect the thesis that the expense of such collections should be included in the costs of litigation because the collection facilities of the county probation office are principally designed to serve the private interests of the litigants. But the public also has a substantial interest in the prompt, regular and efficient enforcement of alimony and support orders. Experience has demonstrated that absent such enforcement, many beneficiaries would be receiving some form of public welfare payments to the manifest financial detriment of the public at large. Additionally, an extra charge of up to $26.00 a year might, in some cases, stimulate efforts to avoid this procedure or to have the amount of the judgment reduced to take the collection fees into account. Such efforts would be incompatible with the public welfare.

Since the public as well as the litigants has a definite stake in the effective continuation of this method of collection by the county probation office, the costs of collections constitute a legitimate governmental expenditure which should not be passed on to the particular individuals involved. I am therefore constrained to return Assembly Bill No. 371 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964

ASSEMBLY BILL No. 406

*To the General Assembly:*

I herewith return Assembly Bill No. 406, without my approval, for the following reasons:

This bill would permit the board of chosen freeholders in each of the 21 counties to establish and appoint a county

parole board consisting of 3 members. The parole board would have the duty "to determine when and under what conditions persons . . . serving sentences in the county jail or other county penal or correctional institutions may be released upon parole after having served at least ⅓ of the sentences imposed upon them respectively."

Although section 30:8–28 of the Revised Statutes does permit a county court judge, upon the recommendation of the sheriff, to grant paroles to persons in the county jail, this authority is rarely exercised. It may well be desirable, therefore, to establish a more comprehensive parole procedure which would be applicable to inmates of county correctional institutions. It is doubtful, however, that the present bill can establish an effective and secure program of parole. Aside from the fact that 21 different boards with varying parole standards would be placed into operation under this bill, each board, the members of which consist of non-salaried part-time officials, would be required to assume an unrealistic work burden. A review of only a few of the bill's provisions reveals its inherent deficiencies.

For example, section 11 of the bill provides that the county parole board shall not release a prisoner unless

> "the board is of the opinion that there is reasonable probability that, if such prisoner is released, he will assume his proper and rightful place in society, without violation of the law, and that his release is not incompatible with the welfare of society."

To fulfill this mandate, the board would require an opportunity to observe closely the attitude and conduct of the prisoner and to assemble and consider pertinent medical, psychological and psychiatric reports. Yet the bill, by providing that prisoners shall be eligible for parole after serving ⅓ of their sentences, would compel the board to consider parole applications as early as 10 days after confinement. The board would, therefore, be forced to determine many parole applications without having had sufficient time to form a considered judgment.

This aspect of the bill raises the question whether prisoners serving extremely short sentences should be eligible to be released on parole. Experience has shown that the benefits to be derived from a parole system are dependent on the existence of both an efficient rehabilitation program within the prison, and an adequate supervisory program

after release. Neither program can be expected to accomplish its purpose when forced to operate within the curtailed period necessitated by a short sentence.

In addition, the sentencing judge may reduce or change a sentence within 60 days of its imposition. R. R. 3:7–13. To the extent that this bill would permit the release of any prisoners within the first 60 days, it creates the possibility for an unnecessary conflict between the sentencing judge and the board.

Moreover, Assembly Bill No. 406 provides that board members shall be "citizens, having recognized ability in the fields of penology, law, psychology, psychiatry or related social sciences, not employed . . . by the county", and that such members shall serve without compensation. Since the parole system envisioned by this bill would require the board to meet practically every day, it is doubtful whether even the most public spirited person with such valuable qualifications could be persuaded to assume this task on a gratuitous basis.

Some lesser problems include the fact that the bill would permit each county parole board to establish rules and regulations, but does not contain guidelines to insure uniform procedures in the counties. The bill also would allow parole consideration to be initiated by the prisoner himself or by certain other persons on his behalf, rather than providing for automatic consideration based on length of sentence and amount of time served. These defects, as well as the others noted, should be corrected in any future legislation on this subject.

Respectfully,

[SEAL] RICHARD J. HUGHES
Attest: *Governor.*

LAWRENCE BILDER
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 518

*To the General Assembly:*

I herewith return Assembly Bill No. 518, without my approval, for the following reasons:

Assembly Bill No. 518 would amend Title 18 of the Revised Statutes (the school laws) to require every school bus, except those with engines mounted in the rear, to be equipped with a convex mirror affixed to the front of the bus in such a manner as to enable the seated driver to observe the road ahead from the front bumper to the point where unaided observation is possible.

In common with several other bills vetoed today, this measure attempts to solve what is essentially a motor vehicle problem outside the scope of the motor vehicle law. Title 18, which the bill would amend, contains no enforcement provisions and gives the Division of Motor Vehicles no specific authority to secure compliance with school bus safety equipment laws. Additionally, I have been advised that motor vehicle law enforcement officers generally are unfamiliar with the school laws, and must rely on the provisions of the motor vehicle law to detect deficiencies in vehicular safety equipment.

For proper implementation and enforcement, a bill of this type should be incorporated into Title 39, the Motor Vehicle Law, rather than into Title 18, the school laws. A substitute measure is being prepared which will accomplish this change. I hope the Legislature will give this measure its prompt consideration.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 536

*To the General Assembly:*

I herewith return Assembly Bill No. 536, without my approval, for the following reasons:

Assembly Bill No. 536 would authorize the imposition of mechanics' liens upon land which has been improved "by the construction, including the paving or surfacing, of any highway, road, street, driveway, curb, gutter or sidewalk or the installation of any sewer or storm drain lines."

This bill apparently is intended to protect the interests of those who furnish labor and materials for the improvement of roadways and the installation of subsurface sewage and water disposal utilities on tracts of land developed as building projects.

I am not unsympathetic to the proposition that contractors and materialmen should be secured for labor and materials furnished for the construction of public streets and the installation of utilities. To the extent that Assembly Bill No. 536 would make these liens superior to the rights of the public in dedicated streets, however, it is unacceptable legislation. It would be highly undesirable and, to say the least, impractical to allow an unsatisfied lien claim to culminate in an execution sale of public streets. See N. J. S. A. 2A:44–109, 110.

The portions of development tracts which are to be improved as paved and surfaced roadways invariably are dedicated by the developer to public use prior to the commencement of the contractor's work. When the developer's offer of dedication is accepted by the municipality upon satisfactory completion of the improvements, the streets assume the character of public property subject to municipal control, with the dedicator retaining only a bare legal title which is subordinate to the public's right-of-way. *State v. Cooper*, 24 N. J. 261, 266-267 (1957). Moreover, the dedication of land for a public street ordinarily includes not only the surface, but also so much beneath the surface as is

necessary to lay down sewers, drains and other common utilities. *Haven Homes v. Raritan Tp.*, 19 N. J. 239 (1955). Thus, it is evident that the type of land upon which Assembly Bill No. 536 would permit the impression of mechanics' liens is peculiarly affected with a public interest which must remain superior to that of the contractor or materialman.

I would suggest, therefore, that the Legislature give further consideration to this problem with a view toward developing a solution which will effectively protect these contractors and materialmen in a manner consistent with the public interest. It is possible, for example, that such developers should be required to post completion and surety bonds before the acceptance of dedicated streets. I will give sympathetic consideration to any such solution that does not subordinate the rights of the public to those of the private parties to construction contracts and agreements.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 548

*To the General Assembly:*

I herewith return Assembly Bill No. 548, without my approval, for the following reasons:

N. J. S. A. 39:4–128.1 now requires motorists on undivided highways to halt their vehicles not less than 10 feet from a school bus which has stopped to receive or discharge school children, provided that the school bus carries appropriate front and rear markings to identify it as such. As-

sembly Bill No. 548 would add the further proviso that a school bus must also be so designated by the electrical identification and flashing warning lights prescribed by N. J. S. A. 18:14–12.1, in order to hold approaching drivers to the duty of stopping their vehicles.

The purpose of this bill is not entirely clear. Literally interpreted, Assembly Bill No. 548 would permit motorists to deliberately pass a halted school bus which, though plainly marked and visibly discharging or receiving passengers, is not properly equipped with electrical identification. Obviously a defect in school bus equipment should not provide a motorist with an automatic excuse to compound the hazard to the lives and safety of school children, and I am unwilling to ascribe to the Legislature so patently undesirable an objective.

I would assume that the Legislature instead was concerned with the entirely different problem of incorporating into the Motor Vehicle Act, for purposes of enforcement, the requirement that school buses be equipped with electrical identification devices. This identification requirement now appears only in Title 18, the school laws, with no sanctions specified for violations, and its introduction into Title 39 undoubtedly would lead to more effective implementation and enforcement. Insofar as Assembly Bill No. 548 undertakes to bring the electrical identification requirement within the purview of the Motor Vehicle Act, its purpose is a good one. As noted, however, it would have the effect of giving errant motorists in some instances a complete defense to charges of wilfully passing school buses, and that result is unacceptable.

A revised school bus safety bill is being prepared which, among other things, will properly accomplish the incorporation of the electrical identification requirements of N. J. S. A. 18:14–12.1 into Title 39 and make violations thereof motor vehicle offenses. I hope the Legislature will give this measure prompt consideration.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 551

*To the General Assembly:*

I herewith return Assembly Bill No. 551, without my approval, for the following reasons:

Assembly Bill No. 551 would provide that all vacancies in county offices required to be filled by appointment of the board of chosen freeholders, and "arising from or created by any cause other than expiration of term of office," henceforth shall be filled for the remainder of the unexpired term only. The bill also would specify that no such vacancy shall be filled during the interval between a general election and the next annual meeting of the board, "except for a term to expire on February 1 next following, and thereafter such appointment shall be made for the remainder of the unexpired term."

While this bill is cast in deceptively simple terms, it would have a sweeping effect upon the existing power of all county boards of chosen freeholders to fill vacancies in county offices arising by reason of the death, disability or resignation of the previous incumbent prior to the completion of his designated term of office. In order to appreciate the significance of the bill in this respect, it is necessary to realize that terms of public office generally fall into two distinct categories. Some terms are fixed by statute with reference to the beginning and end of the period during which the office is to be occupied, with a provision that vacancies are to be filled for the remainder of the unexpired term only. These terms are said to be attached to the office itself rather than to the particular occupant thereof, and continue to run whether or not the office is occupied at any given time. Thus a vacancy occurring prior to the expiration of such a term is filled only for the remainder of that term. Assembly Bill No. 551, aside from the novel proposal concerning appointments between election day and the date of the next annual meeting, merely confirms the existing state of the law in regard to this type of office.

As to many county offices, however, there is an entirely different sort of term which, as a matter of legislative in-

tent, attaches to the occupant of the office rather than to the office itself. The office of county auditor, for example, has a statutory term of 3 years which is fixed only by reference to that length of time. The statute specifies no dates for commencement or termination of the term, and makes no mention of unexpired terms. Such a term is personal to the incumbent, beginning when he is appointed to the office and ceasing when he leaves it, whether before or upon the expiration of the designated time period. A vacancy in the office of county auditor prior to the expiration of the current occupant's 3-year term automatically extinguishes that term, and the succeeding appointee receives a full 3-year term of his own.

Assembly Bill No. 551 apparently seeks to abolish such personal terms in county offices. In effect, the bill would convert all terms of county offices which are personal to the occupant into terms which attach to the office itself. While I am not opposed to the proposition that every county office should carry a term which is coextensive with the office itself rather than with the occupancy of the particular incumbent, I am disturbed by the manner in which Assembly Bill No. 551 would accomplish so fundamental a change in the terms of office of so many county officials.

The bill is designated as a supplement to chapter 21 of Title 40 of the Revised Statutes. It would operate, however, to alter the nature of many statutory terms of office now established by various specific sections of Title 40 and is intended to amend all of these sections without specific reference thereto. Such an amendment, buried in chapter 21 as a separate section, could cause much uncertainty and confusion. Any person wishing to determine the term of a given office naturally would look first to the particular statute creating the office and establishing its term, and might conclude from an examination of this statute that the term is intended to be personal to the incumbent. Unless such a person also happened to be aware of the impact upon that statute of Assembly Bill No. 551, an association which is not readily apparent from the general and self-contained language of the bill, his ultimate conclusion would be erroneous, raising limitless possibilities of litigation.

If it is the Legislature's intenton to convert all existing personal terms of county office into terms that run with the office, it should do so clearly, preferably by direct amendment of the statutes concerning the specific county offices

affected. Any such proposal should also make allowance for the need to adjust the method of computing the duration of the terms which would be converted from personal terms to terms attached to the office. The commencement and expiration dates of such terms should be fixed by statute.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 602

*To the General Assembly:*

I herewith return Assembly Bill No. 602, without my approval, for the following reasons:

This bill would establish the boundary line between the Township of Freehold and the Township of Manalapan in the County of Monmouth.

Both municipalities were requested to indicate to my office whether they approved of the legislation and whether the boundary line was properly set forth in the bill. Despite repeated efforts to obtain this information from these municipalities, I did not receive the necessary assurances.

In the absence of this information, I do not believe it would be appropriate for me to approve legislation which would affect the dividing line between these two municipalities. For this reason I am returning this bill without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

ASSEMBLY BILL No. 638

*To the General Assembly:*

I herewith return Assembly Bill No. 638, without my approval, for the following reasons:

Assembly Bill No. 638 would interpose a new category of criminal assault and battery between the existing statutory extremes of atrocious assault and battery, a high misdemeanor which carries a maximum penalty of seven years in prison and/or a $2,000 fine, and simple assault and battery, a disorderly persons' offense which bears a maximum sanction of one year's imprisonment and/or a $1,000 fine. This new category is intended to encompass, and to punish as a misdemeanor with a maximum prison sentence of three years, the sort of violent action which falls short of the "savagely brutal or outrageously or inhumanly cruel or violent" quality of an atrocious assault and battery (*State v. Edwards*, 28 N. J. 292 (1958)), but is sufficiently serious to warrant treatment as a misdemeanor rather than mere disorderly conduct.

The statement appended to this measure indicates that it was prompted as a result of the wide discrepancy between the sanctions which are attached respectively to atrocious assault and battery and to simple assault and battery. I agree that the creation of an intermediate misdemeanor of assault and battery would bring a desirable flexibility to this area of the law, and in some instances would render the quantum of punishment more fitting to the nature of the particular assault involved.

The Supreme Court has observed that "there is much to be said for such a gradation in an offense of such a wide range as assault and battery" (*State v. Maier*, 13 N. J. 235, 241 (1953)), and I would give favorable consideration to any legislation which effectively accomplishes a meaningful distinction among (1) the high misdemeanor of atrocious assault and battery; (2) the misdemeanor of assault and battery; and (3) the disorderly persons' offense of simple assault and battery.

This bill was passed by the Legislature on December 17 and delivered to my office on December 22, 1964, thus requiring action by this date. In the limited time available, I have endeavored to consider all aspects of this proposal. My review of this bill indicates that it fails to establish a separate and distinct offense. The misdemeanor which this measure would establish as a lesser crime than atrocious assault and battery is described in the following manner:

> "Any person who willfully and wrongfully *wounds or inflicts grievous bodily harm upon another*, either with or without a weapon, is guilty of a misdemeanor." (Emphasis added.)

But N. J. S. 2A:90–1, the statute dealing with the high misdemeanor of atrocious assault and battery, provides:

> "Any person who commits an atrocious assault and battery by *maiming or wounding another* is guilty of a high misdemeanor." (Emphasis added.)

Comparison fails to disclose any significant distinction between the statutory elements of the existing high misdemeanor and those of the less serious crime envisioned by Assembly Bill No. 638. The phrase "wounds or inflicts grievous bodily harm upon another" is conceptually indistinguishable from the prohibition against "maiming or wounding another." And while the courts have amplified the statutory characteristics of atrocious assault and battery to specify that the act must be "savagely brutal or outrageously or inhumanly cruel or violent," surely the act of a person who, in the language of this bill, "willfully and wrongfully wounds or inflicts grievous bodily harm upon another," more often than not would meet that criterion.

It is evident, therefore, that Assembly Bill No. 638, while purporting to establish a new misdemeanor which is different from and lesser than the existing high misdemeanor of atrocious assault and battery, merely paraphrases and recasts the greater crime in the form of the lesser. As a result, this bill could create unnecessary confusion in the administration of criminal justice, for the same act could be punished as either a high misdemeanor or a misdemeanor, depending upon the unguided discretion of the prosecutor and the court concerned.

Moreover, the proviso of Assembly Bill No. 638 that the injury can be inflicted "either with or without a weapon"

would further compound the confusion. N. J. S. 2A:90–3 now makes it a high misdemeanor, separate and apart from the high misdemeanor of atrocious assault and battery, to commit a willful or malicious assault "with an offensive weapon or instrument * * *." But under this bill, an attack with such a weapon would in effect be downgraded to an ordinary misdemeanor, with a maximum of three rather than seven years' imprisonment. In view of the serious and potentially deadly nature of the crime of armed assault, I cannot believe that the Legislature intended such a downgrading and I attribute that result to inadvertence.

This bill, in short, represents a basically sound idea which requires far more legislative consideration than it has received if it is to materialize as meaningful legislation. No one, I am certain, would want or expect any legislative proposal to be enacted into the law of this State until it has been carefully examined and evaluated against the background of all available factual information and pertinent legal considerations. It is the responsibility of the Legislature, in the first instance, to gather the operational facts, to measure the probable legal and social effectiveness of all proposals and to set forth properly such proposals in bill form. To the extent that the Legislature has not adequately discharged that function, this time-consuming but indispensable task has fallen upon my office with its limited resources.

On 27 occasions this year, I have returned to the Legislature measures with suggested changes. Most of these have related to technical problems. While I would ordinarily attempt to suggest suitable language change for a bill of this type, it has not been possible to do so in the time allowed.

I am, therefore, returning herewith Assembly Bill No. 638 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 644

*To the General Assembly:*

I herewith return Assembly Bill No. 644, without my approval, for the following reasons:

This bill would allow any individual who has served as a sanitary inspector first class in any municipality of this State for at least a 10-year period and as an executive officer of a municipal board of health for at least 10 years, to obtain a license as a health officer without the necessity of passing the examination required by N. J. S. A. 26:1A–39.

Of all the trained professionals who serve our municipalities, health officers rank among the most important. They have the major responsibility for safeguarding the public health of the community. Since April 1, 1961, local health departments have been required to comply with the Recognized Public Health Activities and Minimum Standards of Performance for local health departments in New Jersey. To satisfy these standards a licensed health officer must direct programs which include among others: collection and analysis of public health sanitation, air pollution control, bathing place and camp sanitation, food, housing and milk sanitation, public water supply control, sewage disposal control, solid waste disposal control, stream pollution control, veterinary public health control, control of communicable diseases, chronic disease control and health education.

Commensurate with the increasing responsibilities of health officers, the qualifications for the position have necessarily become more stringent. In 1950, standards for the position of health officers were raised to require both a college degree and successful completion of an examination at the professional public health level.

I have been informed that most of the individuals who would be affected by Assembly Bill No. 644 have served in municipalities under 10,000 in population. These people would be licensed as health officers and would be legally

qualified to serve in any of our major municipalities although they have had experience and training only in the area of sanitation and none in the other important areas involving health. It is most unlikely that such restricted experience in the area of sanitation would qualify such an individual to direct the other activities which he would be required to undertake by virtue of the obligation of the local board of health to comply with the Recognized Public Health Activities and Minimum Standards of Performance.

This bill would serve to lower the standards for health officers at a time when the complexities of our society require that the standards be maintained at a high level.

Its enactment has been strongly condemned by most agencies involved with public health activities, including The Medical Society of New Jersey, the State Department of Health, the Public Health Council and the New Jersey Health Officers Association. I can find no conceivable basis for supporting this proposal which would throw open the sensitive area of public health to the ministrations of untrained and unqualified persons.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

ASSEMBLY BILL No. 656

*To the General Assembly:*

I herewith return Assembly Bill No. 656, without my approval, for the following reasons:

Assembly Bill No. 656 would authorize "the director of welfare" to apply welfare funds directly to the payment

of rent to landlords of relief recipients who are eligible for permanent home relief. The bill also would empower "every director of welfare" to withhold such rental payments "in any case where he has knowledge" of dangerous or detrimental housing conditions arising from violations of any law pertaining to building standards.

This measure is designed to provide a powerful new incentive for landlords to comply with building code requirements and, conversely, to impose a meaningful economic sanction upon violators. I am in complete agreement with both the underlying principle and the desirability of this objective. Unfortunately, this bill has been prepared in such a manner as to raise substantial ambiguities which require clarification if legislation of this type is to be effective.

The most serious of the bill's defects stems from its unqualified use of the term "director of welfare" without indicating whether that term is applicable to municipal welfare directors or to county welfare directors or to both. Parenthetically, it may be noted that the title of the bill affords no clue in this respect, for it purports, through inadvertence, to supplement Title 40 of the Revised Statutes, a Title which has nothing to do with the welfare laws. Insofar as the bill might be construed to apply to county welfare directors, it could severely endanger the continuation of our federally assisted aid programs. County welfare departments now receive assistance from the State, part of which comes from federal funds. Under federal law, these funds must be disbursed by the county directly to the relief recipient except in cases involving payment of medical expenses. At the present time, the federal government contributes over $42 million annually to various welfare programs. If county welfare directors were to make direct rental payments as authorized by Assembly Bill No. 656, they would be acting at variance with federal requirements and would unnecessarily jeopardize our right to federal funds. Thus it is essential that any legislation in this area should take pains to exclude county welfare programs from its scope, and to expressly limit its application to municipal assistance programs.

Another serious problem concerns the absence from the bill of a definite procedure to guide the discretion of the welfare director in making or withholding payments of rent. Section 2 predicates that judgment upon the direc-

tor's personal knowledge of building code violations, and imposes no limitation upon the methods by which he may acquire such knowledge. While there is a requirement that "the appropriate department or agency having jurisdiction over violations" must report all violations to the welfare director, the bill does not confine the welfare director to acting only on that source of information. Thus he would be free to act as his own building inspector or to turn to any other informants of his own choosing.

Inasmuch as this measure apparently is intended to coordinate welfare payments with the enforcement of building codes by the appropriate authorities, it is doubtful that the Legislature meant to allow welfare directors to perform both functions. Since the bill in its present form might lead to such an interpretation, I suggest that future legislation on the subject be clarified to authorize welfare directors to withhold rent payments only upon certification by the municipal authority charged with enforcement of the building code that a violation has been found to exist and is outstanding.

I have several other and minor suggestions for the improvement of legislation in this field which need not be detailed now. Because of my sympathetic interest in this subject, I have instructed my legal staff to provide all necessary assistance to the proponents of Assembly Bill No. 656 in preparing a replacement measure for introduction during the next legislative session. I am hopeful that a bill will shortly be enacted to effectively accomplish the laudable purpose of Assembly Bill No. 656.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 659

*To the General Assembly:*

I herewith return Assembly Bill No. 659, without my approval, for the following reasons:

This is a special bill to permit the City of Plainfield to employ members of the police force and paid fire department who do not meet the residency requirements specified by Chapter 47 of Title 40 of the Revised Statutes. The City is permitted to employ such non-residents if it shall find as a fact that adherence to the residency requirement "would seriously impede its ability to establish and maintain competent personnel for its police force and paid fire department." Non-residents so employed would be required to live within a distance of not over 5 miles from the police or fire headquarters of the City of Plainfield.

Without regard to the merits of this proposal, I must return Assembly Bill No. 659 without my approval because of a failure to comply with the provisions of Article IV, Section VII, paragraph 10 of the New Jersey Constitution which provides that legislation regulating the internal affairs of a municipality or county may be passed by the Legislature only upon petition by the governing body thereof specifying the general nature of the law sought to be passed. Unlike two similar measures which I have already approved, Senate Bills Nos. 228 and 374, this bill did not conform with this requirement of the Constitution. It must, therefore, be disapproved.

It is appropriate at this time to point out that the approval herein sought by the City of Plainfield is somewhat different from that granted to the Borough of Glen Ridge and the Borough of Sea Girt in Senate Bills Nos. 228 and 374. In each of these cases, the municipality in question had a population of less than 10,000 persons, a situation which clearly made it difficult to recruit the requisite personnel for their police and fire departments. The City of Plainfield, on the other hand, has a population of more than 45,000 inhabitants. It is the 19th largest municipality in this State.

Before enacting any exemption from the general residency requirements for policemen and firemen, I believe that the Legislature and I should be satisfied that a city of this size cannot recruit the personnel required from its own residents. If, in fact, such a situation does exist in Plainfield, this may indicate that the general residency requirements for policemen and firemen are no longer realistic and that consideration should be given to a revision of these general requirements rather than to the enactment of numerous special bills affecting only individual municipalities. I recommend, therefore, that this aspect be given consideration by the Legislature before any further action is taken on special measures to waive the general residency requirements.

Respectfully,

[SEAL] RICHARD J. HUGHES,
*Governor.*

Attest:

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

ASSEMBLY BILL No. 661

*To the General Assembly:*

I herewith return Assembly Bill No. 661, without my approval, for the following reasons:

Assembly Bill No. 661 would provide that any parent, guardian or other person having legal custody of a child 16 years of age or under, is liable for damages done to real or personal property not in excess of $250.00 provided that the child "willfully, maliciously or unlawfully destroys or injures" such property. The express purpose of this legislation is to provide "some legal deterrent to juvenile acts of vandalism and to parental neglect of child supervision."

I am in fundamental accord with this express legislative purpose. In 1953, I participated in preparing the report of

the Juvenile and Domestic Relations Court Committee of the Supreme Court. This report considered proposals of this nature and concluded that they would not provide the relief from juvenile delinquency that was intended. In recent years, however, we have come to see a growing wave of vandalism and wanton destruction of property by young juveniles which is reprehensible. It is a frightening commentary upon our present society to note that there are numerous children, although only a small percentage of the total, who apparently have yet to learn respect for the rights of others. Therefore, to the extent that this lack of respect can be attributable to the parents, I now am in agreement with this proposal. In such cases, the damage is as much the fault of the parent as it is of the undisciplined child who is acting in such a wanton fashion.

It is, therefore, with some reluctance that I conclude that I cannot approve Assembly Bill No. 661. I find, however, that it contains within it the seeds of injustice in providing for a civil sanction against parents without regard to whether parental neglect in fact exists. The common law concept of tort liability generally has required the existence of a causal relationship between the injury done and the person sought to be held liable. The existence of such a relationship has always been deemed to be fundamental to the right of recovery. This bill would subject to liability, however, all parents of children who willfully or maliciously destroy or injure property even though some of such parents may have exerted every ounce of influence they possess to prevent such an occurrence. In these cases, the provision for civil liability could act more as a lever against the parents in the hands of an irresponsible youth than it could as a measure for responsible conduct on behalf of both parent and children.

I see no reason why a proper measure of this type cannot be prepared. Unfortunately, this bill was not passed by the Legislature until December 17th and thereafter was delivered to me by action of the Speaker. This has necessitated my acting upon this measure by today thus rendering it impossible for me to devote sufficient time to work out the necessary adjustments.

I hope to review this matter with the various sponsors of Assembly Bill No. 661 in an effort to work out a mutually

acceptable proposal. I would hope that any such proposal will have the prompt consideration of the Legislature.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 9, 1964.

ASSEMBLY BILL No. 670

*To the General Assembly:*

I herewith return Assembly Bill No. 670, without my approval, for the following reasons:

The New Jersey Caustic Poison Act now requires all household products containing caustic acids and caustic alkalies, as defined by the act, to be labeled with the word "Poison." Assembly Bill No. 670 would require additionally that such preparations also bear the following legend:

"Warning

Don't mix bleaching agents and toilet bowl cleansers
and ammonia
and lye
and rust remover
and vinegar
and oven cleaner

In short—never mix bleaching agents with any other cleaning compounds."

This bill apparently is intended to alert consumers to the specific phenomenon, recently noted in several medical journals and other publications, that a mixture of certain cleansing agents with chlorine bleaches is capable of releas-

ing a poisonous chlorine gas. However, since chlorine bleaches are the noxious substances involved in this hazard, the bill seems to be misdirected in its indiscriminate application to all caustic acids and alkalies rather than to chlorine bleaching chemicals as such. All caustic acids and alkalies are not chlorine bleaches, and it is by no means clear that all chlorine bleaches are caustic acid and alkali products. Thus Assembly Bill No. 670 might well impose needless burdens in some cases while failing to reach its objective in others.

Notwithstanding the technical nature of Assembly Bill No. 670, the Legislature failed to seek any expert analysis or review of the bill prior to its passage by both Houses less than one month after its introduction into the General Assembly. While some measures may lend themselves to such treatment, bills affecting the health and safety of the public manifestly deserve more thorough legislative consideration.

I am hopeful, therefore, that the Legislature will reconsider carefully the problem projected by Assembly Bill No. 670. In that connection, consideration might be given to the Model Labeling of Hazardous Substances Act which was recently developed by the United States Food and Drug Administration along the lines of the federal labeling law of 1960. This act would establish comprehensive and uniform specifications and machinery for regulating the labeling of all dangerous chemical products, and appears to have widespread support among those who are knowledgeable in this field. It is possible this act may provide a suitable approach to this important general problem.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

ASSEMBLY BILL No. 696

*To the General Assembly:*

I herewith return Assembly Bill No. 696, without my approval, for the following reasons:

Assembly Bill No. 696 would authorize every Superior Court and County Court judge assigned to hear matrimonial actions in the Chancery Division in a county of the first class to designate, from among the regular court attendants of the county, a person to act as his sergeant-at-arms.

Such authorization now is granted by statute to Law Division and County Court judges sitting in first class counties, as well as certain other judges, but has not been extended to judges assigned to the Chancery Division of the Superior Court. Whether the privilege of appointing sergeants-at-arms should be so extended ultimately depends upon the basic desirability of the practice as it now exists. The court has suggested that the position of sergeant-at-arms serves no real purpose, and should be abolished in favor of a flexible procedure requiring the sheriff of each county to provide all courts within the county with regular court attendants on the basis of need, as determined by the Assignment Judge. Neither this proposal, nor the opposite view embodied in Assembly Bill No. 696, can be evaluated properly without a thorough review of the duties now performed by sergeants-at-arms, and a consideration of whether those duties can be performed effectively by regular court attendants.

Unfortunately, however, this bill, which was not passed by the Legislature until December 17, 1964, was presented to me by the Speaker on December 22nd and consequently must be acted on today. Lacking sufficient time to give this measure the type of consideration it obviously warrants and, in consideration of the viewpoint expressed by the

court, I am constrained to return Assembly Bill No. 696 without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*
LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 32

*To the Senate:*

I herewith return Senate Bill No. 32, without my approval, for the following reasons:

This bill would authorize any municipality to grant an annual life-time pension not exceeding $1,000.00 per annum to any former overseer of the poor or former deputy overseer of the poor who shall have served in that capacity for 20 continuous years.

Subsequent to the passage of this measure, a replacement bill was introduced with the cooperation of the sponsor and was passed by the Legislature as Senate Bill No. 353. I signed this bill into law on May 18, 1964 as L. 1964, c. 59. In view of such action, there is no need for further consideration of Senate Bill No. 32.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*
LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 70

*To the Senate:*

I herewith return Senate Bill No. 70, without my approval, for the following reasons:

Senate Bill No. 70 authorizes the governing body of any municipality which has adopted civil service to provide by resolution for the payment of sick leave benefits to members of a municipal beach patrol who are "seasonal employees" and have been employed as such for at least ten years. Such benefits would vest "in the same manner and to the same extent as in the case of permanent employees in the classified service of such municipality," and would be conferred retroactively upon persons who "heretofore have been" beach patrol members for the required length of time.

Since the civil service law contains no provision for the appointment of "seasonal employees," the category of civil service appointees which this bill is intended to benefit does not have legal status. Beach patrol members now are classified as permanent or as temporary employees.

The Legislature could accomplish its objective by creating a new civil service category of seasonal employees, or by granting sick leave benefits to an existing category of temporary employees doing seasonal work. If either of these approaches are considered, I would suggest that the proposal encompass all employees who are similarly situated and not merely one particular subclass as is specified by Senate Bill No. 70.

Respectfully,

[SEAL]
Attest:

RICHARD J. HUGHES,
*Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
June 22, 1964.

SENATE BILL No. 78

*To the Senate:*

I herewith return Senate Bill No. 78, without my approval, for the following reasons:

Senate Bill No. 78 would amend the law concerning Juvenile and Domestic Relations Courts to provide that the Governor can appoint 4 attorneys-at-law in counties of the first class, except such counties having a population between 700,000 and 900,000, in which counties he shall appoint 2 attorneys-at-law. The effect of this bill would be to provide 2 additional Juvenile and Domestic Relations Court judges in Hudson County.

A similar provision was inserted, by amendment, in Senate Bill No. 257 which has since been approved by me, Chapter 85, P. L. 1964. The provisions of Senate Bill No. 78, therefore, are now set forth in the law and the bill is unnecessary.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 109

*To the Senate:*

I herewith return Senate Bill No. 109, without my approval, for the following reasons:

Public employees who serve as elected members of state-administered pension boards and commissions are now entitled by law to time off with pay to attend board or commission meetings. Senate Bill No. 109 would grant them additional paid leaves of absence during periods of "field work, or investigation necessary in connection with" the performance of their duties as members of the various boards and commissions.

I cannot agree with the fundamental concept of this bill that "field work or investigation" is the proper business of any member of a public pension board or commission. These officials are required by statute to sit in impartial judgment on pension applications and to determine the merits of each application when, and not before, it is presented to them in a formal and quasi-judicial context. It is neither necessary nor desirable for a pension fund trustee or commissioner to conduct his own "field work or investigation" with respect to a pending pension claim. Such personal foreknowledge could only lead to prejudgment and consequently to an erosion of painstakingly erected safeguards of administrative due process. Any necessary "field work or investigation" can and should be done by the trained staff examiners who are available to each pension board or commission for that very purpose.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 147

*To the Senate:*

I herewith return Senate Bill No. 147, without my approval, for the following reasons:

This bill would require the Director of the Division of Motor Vehicles, upon payment of an extra fee of $10.00, to issue specially designed registration plates to applicants who hold amateur radio licenses. In place of the now uniform sequence of three letters followed by one, two or three numbers, each set of special plates would bear the distinctive radio call letters of the applicant, ordinarily consisting of one or two letters followed by one number and an additional two or three letters.

A measure similar to this bill was vetoed in 1955, primarily on the ground that such a departure from the standard plate design for the benefit of one particular group would create serious and unnecessary administrative problems for the Division of Motor Vehicles. At that time, Governor Meyner pointed out that any need for special automobile identification of amateur radio operators in connection with their civil defense and other public activities could be satisfied by the adoption of appropriate insignia to be affixed to their vehicles along with regular registration plates. It was also observed that such special treatment of one group inevitably would be followed by similar requests from many others with equally cognizable claims, thus compounding the administrative difficulties beyond estimation.

After reviewing Senate Bill No. 147 in the light of the objections expressed by the earlier message, I must agree that special plates cannot be justified on the basis of any necessity for distinctive identification of the vehicles of amateur radio operators who assist in civil defense functions and emergencies. This objective can be realized in a number of other ways, perhaps by the use of specially designed smaller plates to be issued by the State for attachment along the top of regular registration plates. A bill to authorize the issuance of such insignia to amateur radio operators could meet the asserted need for identification. In any event, I cannot subscribe to the argument that the complete replacement of regular plates by special plates is necessary to the public work of amateur radio operators.

I recognize, however, that our amateur radio operators have a genuine interest in being accorded this privilege. In an effort to be completely objective in this matter, I withheld any decision until the Division of Motor Vehicles had an opportunity to restudy the administrative and law enforcement aspects of the proposal to determine whether

it might be possible to accommodate the wishes of this group in a manner compatible with the public interest. After a comprehensive review of the bill and its implications, the Division has concluded that the installation of such a special numbering and lettering system for a relatively small percentage of our drivers would seriously disrupt the entire New Jersey registration and vehicle identification system, which is among the finest and most efficient in the United States today. I have no alternative but to defer to that judgment.

It is true that many states do authorize the issuance of special call letter plates to amateur radio operators. These states, however, do not have New Jersey's uniform registration plate format with its advantage of swift and accurate identification of motor vehicles. The central filing system of the Division of Motor Vehicles is geared to a registration plate designation of three letters followed by from one to three numbers. Any variation from that sequence would render the keeping of proper records far more difficult and subject to error. In addition, motor vehicle law enforcement officers are trained to identify vehicles in terms of our familiar and uniform plate design, and special plates could cause confusion and inaccuracy.

Furthermore, while most other states issue replacement plates annually and close out their records at the end of each year, the New Jersey renewal system entails the expiration of one-twelfth of all outstanding registrations during each calendar month. This staggered system is highly efficient, but necessarily means that the records of the Division of Motor Vehicles are in a constant state of flux and must be updated continually. There can be no doubt that a special format for a particular group would severely impede this essential operation. Finally, approval of this bill unquestionably would open the door to the issuance of special plates to many other worthy groups, and consequently to the breakdown of a numbering and lettering system which is second to none.

As indicated above, I would be sympathetic to any proposal which would accommodate the desire of amateur radio operators for distinctive insignia in a way that does not intrude upon the overriding public interest in the maintenance of an accurate and efficient motor vehicle registration system. Since Senate Bill No. 147 would conflict demon-

strably with the public interest, however, I feel that I must return this bill without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 12, 1965.

SENATE BILL No. 216

*To the Senate:*

I herewith return Senate Bill No. 216, without my approval, for the following reasons:

Senate Bill No. 216 would exclude grandparents from the classes of persons who are legally responsible for the financial maintenance of dependent relatives.

This measure is designed to relieve persons of advanced age, most of whom are themselves of limited means, from any obligation to support younger members of their families. I am in complete agreement with the wisdom and desirability of that objective. Senate Bill No. 216, however, fails to achieve it.

The difficulty is that this bill does not grant the exemption to aged persons as a class, but only excuses grandparents with respect to the support of their grandchildren. Under this limited classification, our senior citizens would remain fully liable for the support of their dependent *children*, and thus would derive no benefit from the bill in some instances. Although grandparents would be relieved of the obligation to support their indigent grandchildren, chances are good that, in many cases, the children of these grandparents will also be indigent. It would come as small com-

fort for an aged person to be freed from the obligation of support as a grandparent but not as a parent.

Conversely, it does not follow that all grandparents are elderly. Many persons who are in their early forties, and who are only beginning their most financially productive years, are grandparents. I can find no reason that could justify excusing relatively young and affluent persons from assisting their needy grandchildren.

As indicated above, I am very much in favor of the idea behind this bill and have so informed the sponsor of this measure. My legal staff will be available to assist with the prompt preparation of a replacement measure which meets the objections expressed herein. I hope the Legislature will give immediate consideration to such a measure.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 236

*To the Senate:*

I herewith return Senate Bill No. 236, without my approval, for the following reasons:

Senate Bill No. 236 would amend the penalty section of the Uniform Narcotic Drug Act in three respects:

(1) It would eliminate the existing language which provides that any person over the age of 21 years who sells or gives any narcotic drug, except as authorized by law, to any person under the age of 18 years, is guilty of a high misdemeanor and is punishable by a fine of not less than $2,000.00 or more than $10,000.00 and by imprisonment at hard labor for not less than 2 years with a maximum of imprisonment for life.

(2) It would insert a new provision that any person who manufactures or sells any narcotic drug in violation of any of the provisions of the Uniform Narcotic Drug Act "solely for purposes of pecuniary gain or with intent to, or under such circumstances as shall tend to, corrupt youth" shall be guilty of a high misdemeanor and punishable by imprisonment for a term of not less than 20 years with a maximum of imprisonment for life.

(3) It would prohibit the suspension of the mandatory sentence provided for under the provisions discussed in point 2 above.

As I have attempted to indicate in my message on Senate Bill No. 235 which is being returned today with certain recommendations, I will consider favorably any legislation which will assist the duly constituted authorities in their efforts to control or to eliminate illicit traffic in narcotic drugs. Indeed, as I have stated, I share the Legislature's concern with the problem caused by the misuse of narcotic drugs. I believe the provisions of Senate Bill No. 210, a bill which I have approved today, represents a significant step forward in the State's battle to deal realistically with this problem. By establishing an affirmative policy directed to the prevention of drug addiction and the rehabilitation of drug addicts, the State has recognized that this problem cannot be treated simply as a law enforcement matter. This does not imply that existing criminal provisions cannot be improved nor that they should not be strengthened. It does mean, however, that any steps taken in this direction must be carefully measured to produce meaningful and desirable results.

By such a test, Senate Bill No. 236 is poor legislation. Not only is it vague and difficult of interpretation in many respects, but in the few areas where the bill is clear, a literal interpretation of the provisions can lead to ludicrous results. This is separate and apart from the provisions requiring a mandatory minimum sentence. My reason for opposing such provisions are set forth in detail in my message on Senate Bill No. 235.

For example, the bill would condemn any person who sells or manufactures a narcotic drug in violation of the provisions of the Uniform Narcotic Drug Act "solely for purposes of pecuniary gain". It would punish such an offender through the imposition of a sentence of not less than 20 years without any possibility of leniency by judge

or jury. Superficially, this may seem to be fit retribution for those individuals who would traffic illicitly in narcotic drugs. The Uniform Narcotic Drug Act, however, to which this penalty provision applies, is not a criminal statute as such. It is largely a regulatory act specifying the standards for the manufacture and sale of narcotic drugs. Basically it is applicable to the businessmen and professional people who must handle such drugs as an ordinary part of their activities. The act contains numerous technical provisions. It requires, for instance, that a prescription contain the date of filling and the signature of the person who has filled the prescription on the face thereof. It is a violation of the act for pharmacists to sell a narcotic drug unless the prescription is properly executed in this manner. Under the terms of Senate Bill No. 236, such a violation could result in a mandatory 20-year sentence.

Similarly, it is unlawful to refill a narcotic drug prescription. A pharmacist who would do so would face a minimum 20-year penalty. Similar restrictions would apply to physicians and dentists. Presumably, they too would deal with narcotic drugs at their peril, confronted by the same awesome penalty for any misstep.

In addition, the Uniform Narcotic Drug Act requires manufacturers, wholesalers and pharmacists to keep specific records. A failure to keep records of the sale of narcotic drugs in the manner prescribed by the act would constitute a violation. Presumably, such violations again could result in conviction and mandatory 20-year sentences. These examples represent but a few of the possible violations which could come within the ambit of the penalty clause, and yet obviously do not represent the criminal activity aimed at by the statute.

It may be argued that such violations are not the ones against which Senate Bill No. 236 is directed; that the Legislature did not intend that such severe sentences should be applied in such instances. The law, however, provides for no such flexibility in imposing the penalty; it permits no discretion. It is this very lack of flexibility which could lead to such results. Every law enforcement officer, every prosecutor, every judge and every member of a jury, when faced with such innocuous violations would be required either to adhere to these penalty provisions, although unbelievably harsh, or to use their own conscience as a basis

for nullifying what is expressed as a clear mandate of the Legislature.

It is the lawmaker's responsibility in the first instance to make certain that his product is sound. The public should not be compelled to rely upon the good judgment of others to safeguard it from the poor judgment of the lawmaker.

Equally difficult problems are presented by the provisions of the bill which would make it a high misdemeanor for any person to manufacture or sell a narcotic drug in violation of the provisions of the Uniform Narcotic Drug Act "with intent to, or under such circumstances as shall tend to, corrupt youth".

Well-established principles of constitutional and criminal law assert that:

> "A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law." *State v. New York Central Railroad Co.,* 37 N. J. Super. 42 (App. Div. 1955).

The county prosecutors to whom this legislation was submitted for their comments, have uniformly indicated their difficulty with interpreting the language of this provision. The requirement that an act "tend to corrupt youth" is so amorphous as to defy certain interpretation. Even if a prosecutor were able to satisfy a jury, it is doubtful that such a conviction could stand before the Courts. This is especially true when the penalty for violating such provisions is a mandatory sentence for not less than 20 years. When the stakes are so high, the Courts rightfully insist that the rules be clear. Yet, this provision fails to specify, except in broadest generalities, the conduct prohibited thereunder.

The Legislature has taken a sound step forward with the enactment of Senate Bill No. 210. It should not demean its accomplishment with the passage of bills such as Senate Bill No. 236.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 237

*To the Senate:*

I herewith return Senate Bill No. 237, without my approval, for the following reasons:

This bill is a companion measure to Senate Bills Nos. 235 and 236. It would prohibit the suspension of the mandatory minimum sentences which would have been imposed under the provisions of these bills.

I have today also returned to the Legislature Senate Bills Nos. 235 and 236. In the case of Senate Bill No. 235, I have recommended certain amendments to replace the mandatory provisions set forth therein. For the reasons set forth in the messages as to these bills, I cannot approve of this bill's proposal to strip the judiciary of its power concerning suspension of sentencing. Nowhere, in the report of the Narcotic Drug Study Commission, the recommendations of which this bill purports to carry out, is there any indication that the courts have abused this power. In the absence of such facts, this bill cannot be justified.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 248

*To the Senate:*

I herewith return Senate Bill No. 248, without my approval, for the following reasons:

This bill would amend the law concerning the Delaware River Joint Toll Bridge Commission to require the Governor's appointment of Commissioners thereto to be subject to the advice and consent of the Senate.

I have been told that a moving force behind this Senate bill is a desire on the part of some Senators to see appointees to bi-state agencies treated on a uniform basis. While uniformity of treatment is often a laudatory aim, it should not be considered as an end in itself. In abstract, the concept of Senate confirmation for such appointees would not seem to be inappropriate. When measured against the record established for other bi-state agencies, it seems less desirable.

For example, the Senate failed to confirm all but 2 of the nominees of former Governor Meyner to the Delaware River Port Authority although this meant that 6 of the 8 positions were left vacant or filled by holdover commissioners for 8 years or more. Even though I have appeared to have had more success with appointments to the Delaware River Port Authority, I find that for the past 2 years, the Senate has not acted upon my appointment of the State Treasurer to that agency. Despite repeated assurances from many responsible Senate leaders, my nomination of this distinguished public servant has not been acted upon and the Governor and the people are denied, through such inaction, the right to a watchdog representative on this important agency. Such a record does not inspire confidence, and certainly would not justify signing this bill into law.

Accordingly, I am returning this bill to the Legislature without my approval.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
November 16, 1964.

SENATE BILL No. 275

*To the Senate:*

I herewith return Senate Bill No. 275, without my approval, for the following reasons:

Senate Bill No. 275 would amend P. L. 1956, c. 89 to raise from $1,200.00 to $1,800.00 the amount which retired teachers, veterans, and other public pensioners can earn annually as substitute teachers without forfeiting their pensions. According to the statement appended to the bill, this change is designed to protect those retired pensioners who have successfully avoided the social security offset from again being subject to the offset if they return to public employment and earn additional quarters of social security coverage in part-time employment.

If this is the purpose of the bill, it does not accomplish its objective. While individuals meeting certain prescribed requirements and coming under the coverage of either the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System are permitted to retire prior to age 65 and receive a pension in which no offset for social security is made, they are not allowed to earn additional quarters of social security coverage from public employment in New Jersey after the date of retirement and before reaching age 65. Senate Bill No. 275 does not change this result.

The law which this bill would amend does not relate to the portion of an individual's pension which would ordinarily be subject to social security offset, but rather with the right to receive a pension while continuing part-time public employment. These are two separate and distinct subjects.

To the extent that the purpose of this bill is to raise from $1,200.00 to $1,800.00 the amount which retired individuals can earn as substitute teachers, it is still unnecessary. N.J.S.A. 43:3–5 already allows substitute teachers to earn up to $1,800.00 annually without incurring a forfeiture of their pension.

Since this bill does not appear to accomplish any useful purpose, I do not find it necessary to consider whether persons who have been accorded the special privilege of retiring upon a pension free from the ordinary social security offset should be accorded the additional privilege which apparently is intended. This is a subject, however, which should warrant close attention by the Legislature should this matter be reconsidered.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 294

*To the Senate:*

I herewith return Senate Bill No. 294, without my approval, for the following reasons:

The Department of Civil Service in the executive branch of State government is headed by a commission of 5 members who are appointed by the Governor with the advice and consent of the Senate. Unlike most other department heads, who serve either at the pleasure of the Governor or, in two instances, for terms coextensive with that of the Governor, each Civil Service Commissioner now receives a fixed term of 5 years. These terms deliberately are designed to extend beyond the tenure of the appointing Governor and to be out of step with the 4-year span of any particular Administration. The reason, which is keyed to the over-all policy of the Civil Service Act and to the constitutional mandate of complete impartiality in matters of public employment, is that the Civil Service Commission should be insulated as effectively as possible from partisan political considerations.

Senate Bill No. 294 would remove this barrier against political pressure by providing that appointments to the Civil Service Commission henceforth "shall be made in such manner that the appointees shall be, as nearly as possible, in equal numbers, members of different political parties." The phrase "political parties" is defined by the bill to mean the two parties which enjoy the greatest representation in the General Assembly at the time when the appointments are made. The bill would further specify that one of the 5 commissioners shall serve "at the pleasure of the Governor," rather than for the 5-year term conferred upon his 4 colleagues. This measure, therefore, envisions a Civil Service Commission composed of 2 Republicans and 2 Democrats, appointed to 5-year terms, and a "swing" member without a fixed term who presumably would be of the political persuasion of the appointing Governor.

To the best of my knowledge, this is the first bill passed by the Legislature which would impose a political test of eligibility to serve, either singly or in conjunction with other board or commission members, as the head of a principal department of government. Unlike other states which have adopted the theory that executive department heads should be chosen through the political process, New Jersey in its Constitution has made the decision that all individual department heads, and all members of boards or commissions which are department heads, "shall be nominated and appointed by the Governor with the advice and consent of the Senate." Article V, Section IV, paragraph 2, 3 and 4. The Constitution does not specify any particular qualifications for appointment to the head of any department, but confers upon the Governor the widest possible latitude in selecting the best appointees who are available subject to Senate confirmation.

Senate Bill No. 294 runs in opposition to this constitutional scheme by seeking to establish a qualification for appointment to the Civil Service Commission which bears no reasonable relationship to the ability of a prospective appointee to discharge the responsibilities of that office. Under this bill, individual vacancies on the Commission would have to be filled with an eye toward maintaining its political character, thus reducing the field of eligible appointees to members of the major political party whose "turn" it happens to be.

The shortsightedness of such a partisan political test becomes even more apparent when it is realized that the bill would automatically exclude from consideration for appointment to the Commission any person who is recorded as an independent voter or who is a member of a political party other than the 2 major parties. Yet, in many cases, "nonpartisan" persons can best perform certain functions in an area as politically delicate as civil service. In the past, consultants, university personnel and other nonaligned persons have been brought into government for the benefit of their fresh insight. Senate Bill No. 294 would disrupt such practices.

While I have the highest respect for persons who engage in partisan politics, I can see no basis for limiting appointments to such persons especially when the agency in question, the Civil Service Commission, is under a constitutional mandate to make appointments and promotions "according to merit and fitness."

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 17, 1964.

SENATE BILL No. 309

*To the Senate:*

I herewith return Senate Bill No. 309, without my approval, for the following reasons:

Senate Bill No. 309 would supplement Title 18 of the Revised Statutes (the school laws) to provide that any person who operates a public school bus without the electric identification and warning lamps required by P. L. 1948, c. 133, is a disorderly person and shall be subject to a fine not exceeding $25.00.

This measure, in common with several other bills passed during the current session, represents an attempt to solve what is essentially a motor vehicle problem outside the scope of the motor vehicle law. Under the existing statutory arrangement, the basic act pertaining to school bus safety equipment, P. L. 1948, c. 133, is set forth in Title 18 as a supplement to the school laws. Unfortunately, this act contains no enforcement provisions and does not give the Division of Motor Vehicles specific authority to secure compliance with its requirements.

While Senate Bill No. 309 would provide sanctions for one particular type of violation of P. L. 1948, c. 133, it would perpetuate the existing problem by doing so without reference to Title 39, the Motor Vehicle Law. Since motor vehicle law enforcement officers generally are not familiar with the provisions of the school laws, they tend to rely upon the provisions of Title 39 to determine what are the legal requirements as to vehicular safety equipment. To properly implement and enforce the provisions of the school bus law relating to equipment and safety, such provisions should be incorporated into the Motor Vehicle Law. This could be accomplished by the enactment of a comprehensive measure designed to empower the Division of Motor Vehicles to deal with all school bus safety equipment violations as motor vehicle offenses.

A revised school bus safety bill has been prepared to replace Senate Bill No. 309 and the similar measures referred to herein. Among other things, this bill would properly accomplish the incorporation of the electrical identification requirements of P. L. 1948, c. 133, into Title 39 and would penalize violations thereof as motor vehicle offenses.

Although I had hoped that the revised bill could be enacted this year, the legislative leaders have advised me that it would not be feasible for the Legislature to give the measure such swift consideration. Accordingly, this bill will be introduced early in the next session, and I earnestly commend it to the prompt attention of the Legislature.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
June 22, 1964.

SENATE BILL No. 344

*To the Senate:*

I herewith return Senate Bill No. 344, without my approval, for the following reasons:

On April 21, 1944, R. S. 18:14–80 was amended to stipulate that public school pupils shall not be required to salute or pledge allegiance to the flag of the United States if they hold "conscientious scruples" which preclude participation in that ceremony. L. 1944, c. 212. The amendment was enacted in response to the landmark decision of the United States Supreme Court in *West Virginia State Board of Education v. Barnette,* 319 U. S. 624 (1943). As a matter of common knowledge to all who are reasonably conversant with basic constitutional principles, the Court in that case wrote the finish to an unhappy era of bitter ideological controversy throughout the nation, of which New Jersey had its fair share, by holding that a state cannot constitutionally compel its school children to engage in the flag salute and pledge in contravention of personal convictions and beliefs.

Senate Bill No. 344, which passed the Legislature without debate or dissenting vote, would reverse the course of our constitutional history by deleting from the statute the substance of the 1944 amendment. The manifest effect of the bill would be to compel all public school pupils, except the children of certain representatives of foreign governments, to execute the flag salute and recite the pledge of allegiance without regard to "conscientious scruples against such pledge or salute * * *". Noncompliance presumably would constitute good cause for suspension or expulsion from school. R. S. 18:14–50.

In the *Barnette* case Mr. Justice Jackson, speaking for the Court, wrote:

> "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to

confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

"We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control."

This unequivocal, and widely quoted, statement of rudimentary constitutional doctrine has found complete acceptance as the law of the land, binding not only upon West Virginia but on every other state as well. It is a governmental truism that the United States Constitution, as interpreted by the Supreme Court, is "the fundamental and paramount law of the nation." *Marbury v. Madison,* 5 U. S. 137, 177 (1803). It is equally well established that the Court's resolution of a particular constitutional issue applies not only to the immediate litigants, but to all other persons and governmental authorities who are similarly situated. *Cooper v. Aaron,* 358 U. S. 1, 18 (1958). It ill becomes a state legislature to turn its back on the Constitution by seeking to curtail anew the religious and civil liberties of those whose individual beliefs, however unorthodox, are protected from invasion by the First and Fourteenth Amendments. "If the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the Constitution itself becomes a solemn mockery * * *". *United States v. Peters,* 9 U. S. 115, 136 (1809).

The bill before me, which would turn back the calendar to an earlier and uglier time in the history of our continuing quest for liberty and justice for all, well illustrates the dictum that those who will not learn from history are forever condemned to repeat their mistakes.

These words come easily to my pen because I subscribe wholeheartedly to the thesis that government cannot and should not attempt to coerce uniform acceptance of a patriotic creed in derogation of individual convictions. The First Amendment was written against a background of persecution of those whose beliefs, religious and otherwise, forbade expressions of homage to symbols of secular au-

thority. If our constitutional liberties are to mean anything at all, we cannot compel the few to join the many in expressing adherence to the values of the majority. "Compulsory unification of opinion achieves only the unanimity of the graveyard." *Barnette, supra.* The compulsory salute and pledge does no honor to our flag, but stains it with the tears of little children acting "in reluctant and terrified obedience to a command of secular authority which clashes with the dictates of conscience." *People v. Sandstrom,* 279 N. Y. 523, 18 N. E. 2d 840 (1939). Such repressive legislation has no proper place in our constitutional scheme. Responsible government has always sought, within the limits of absolute public necessity, to accommodate the dictates of individual conscience. Even in time of war, for example, the principles of those who are conscientiously opposed to the conduct of war are respected. We can do no less here.

It must be emphasized, however, that my personal agreement with the holding of the Supreme Court in *Barnette* is actually extraneous to my decision to veto this bill. As Governor of this State, I have sworn an oath which makes it my highest obligation to support the Constitution of the United States. The Supreme Court, as the final arbiter and exponent of the meaning of that Constitution, has ruled that it forbids the compulsory flag salute and pledge. The Legislature has nonetheless seen fit to impose this requirement upon our school children. In such circumstances, my duty is clear. The United States Supreme Court itself has reminded us that "[n]o state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." *Cooper v. Aaron, supra.* (358 U. S. at 18).

If the executive branch of state government were empowered to approve a violation by the legislative branch of its collective constitutional oath, "it is manifest that the fiat of a state Governor, and not the Constitution of the United States, would be the supreme law of the land; that the restrictions of the Federal Constitution upon the exercise of state power would be but impotent phrases * * *". *Sterling v. Constantin,* 287 U. S. 378 (1932). In short, without detracting from the strength of my personal convictions on this subject, it is ultimately my oath of office which requires me to return this bill to the Legislature without my approval.

As a final word, it has come to my attention that the sponsor of this bill, anticipating my inevitable and necessary disapproval thereof, has indicated that he intends to reintroduce his original, more "limited" version which would compel pupils with conscientious scruples to execute the flag salute without reciting the pledge. Inasmuch as both the salute and the pledge are integral components of the compulsory ritual banned by *Barnette,* it may be that a re-reading of that case in the light of the universal oath to support the Constitution of the United States, applicable to legislators and governors alike, will result in a change of mind.

Respectfully,

[SEAL] RICHARD J. HUGHES,
Attest: *Governor.*

LAWRENCE BILDER,
*Acting Secretary to the Governor.*

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| A. 561 | Authorized the State Highway Department to pay counties or municipalities up to 90% of the cost of repairing damage to roads caused by vehicles weighing over 40,000 pounds and licensed as "constructors" (R. S. 39:3–20); specifies the procedure for application, approval and payment of such funds. | Conditional | 12 |
| A. 656 | Permits the director of welfare to pay directly to the landlord any payment for rent due to a recipient of welfare eligible to receive permanent relief in the home. | Absolute | 142 |
| A. 657 | Provides that the board of freeholders shall not be restricted by the planning board from repairing, maintaining and improving any existing street, road, viaduct, bridge or parkway which does not involve the acquisition of additional land. | Conditional | 22 |
| S. 18 | Requires every county to have a replica of the county seal displayed upon every County Motor Vehicle, except those assigned to the office of the prosecutor, sheriffs, county police department and weights and measures departments. | Conditional | 28 |
| S. 60 | Amends the Public Employees' Retirement-Social Security Integration Act to provide that veteran township magistrates in specified categories shall not be affected by the reduction applicable to persons earning additional Social Security coverage under Section 50 of the Act. | Pocket | |
| **COURTS** | | | |
| A. 147 | Permits the court to subject a claimant to a penalty of $50 upon proof that the claimant willfully refused to honor a request to file a certificate of discharge after a written demand therefor, served, upon the claimant 15 or more days after the satisfaction of the claim and 10 or more days prior to the application to the courts for an order to discharge the notice. | Conditional | 3 |
| A. 239 | Provides that certain records of the juvenile and domestic relations court shall be open for public inspection. | Absolute | 114 |
| A. 536 | Permits a first lien for labor performed or material furnished for paving or surfacing any road or street or installing of sewers, storm drains and other utilities. | Absolute | 132 |
| A. 696 | Permits any Superior Court or County Court judge, while serving in the Chancery Division of the Superior Court for the trial of matrimonial causes in a first class county to designate a court attendant as his sergeant-at-arms, with approval of the county sheriff. | Absolute | 150 |

| *Subject* | *Bill* | *Type of Veto* | *Page* |
|---|---|---|---|
| S. 78 | Provides that there shall be 4 juvenile and domestic relations court judges in counties of the 1st class except such counties having between 700,000 and 900,000 population, which shall have 2. | Absolute | 153 |

**DISORDERLY PERSONS see SCHOOLS**

**EDUCATION see SCHOOLS**

**ESTATES**

| | | | |
|---|---|---|---|
| S. 291 | Provides that when the father of an illegitimate child has been determined by the order or judgment of a court, such child shall be treated the same as if he were the legitimate child of such father, so that the child and his issue shall inherit and take from such father, and such father from the child and his issue. | Pocket | 89 |

**FOREIGN VESSELS**

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| S. 167 | Requires all tickets sold for passage aboard any vessel required to be registered in any country, and any advertising or information pertaining thereto, to be clearly imprinted and indicated. | Pocket | 83 |

**GAMES**

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| A. 586 | Permits certain "box top contests" and door prize distribution. | Conditional | 15 |

**HEALTH**

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| A. 261 | Requires a prescription for a narcotic to be on a special narcotic prescription form of a type and design established by the Department of Health; requires prescription to be retained in a separate file. | Absolute | 119 |
| A. 670 | Specifies the required wording on the labels of cleansing and bleaching agents. | Absolute | 148 |
| A. 644 | Provides that any person who has served as a sanitary inspector first class in any municipality for a period of 10 years and as executive officer of a municipal board of health for at least 10 years, shall be entitled to obtain a license as a health officer without taking an examination. | Absolute | 141 |

**HIGHWAYS**

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| A. 148 | Directs the Highway Commissioner to add to the State highway system the route beginning at the intersection of Cape May County road No. 585 with route No. 9 at Burleigh in Cape May County and extending along and including Cape May County road No. 585 in a southeasterly direction to the northeasterly line of the City of North Wildwood. | Absolute | 108 |

| *Subject* | *Bill* | *Type of Veto* | *Page* |
|---|---|---|---|
| | S. 15 Provides that when the Turnpike bonds are paid off, the Turnpike will continue as a toll road and the surplus deposited in the General Treasury; grants the Governor veto powers over authority's actions. | Conditional | 23 |
| **HOLIDAYS** | | | |
| | A. 545 Designates the period of June 7 through June 14 of each year as American Flag Week. | Conditional | 10 |
| **INSURANCE** | | | |
| | A. 446 Permits admitted insurers to write surplus insurance through any broker licensed in the State. | Conditional | 8 |
| | S. 276 Clarifies the laws permitting counties, municipalities, school districts and other public agencies to provide group insurance and hospital and medical services for their officials and employees. | Conditional | 72 |
| **INTERSTATE RELATIONS** | | | |
| | A. 138 Provides that the Commission on Interstate Co-operation shall name a New Jersey delegate as a member of the Board of Managers of the Council of State Governments. | Conditional | 1 |
| **LEGISLATURE** | | | |
| | A. 359 Establishes a 9 member bipartisan Law Enforcement Council, 3 members appointed by the President of the Senate, 3 members appointed by the Speaker of the General Assembly, 3 citizens appointed by the Governor; defines its functions, powers, and duties; appropriates $50,000; inoperative on and after January 11, 1966. | Absolute | 123 |
| | S. 40 Regulates specified activities by legislators, State officers, employees, and appointees with respect to conflicts of interest between their public duties and their personal business or professional interests; establishes a Commission on Ethical Standards in the Executive branch, provides for the establishment of a standing ethics committee in each House of the Legislature. | Conditional | 3 |
| **LIENS see COURTS** | | | |
| **MOTOR VEHICLES** | | | |
| | A. 46 Reduces from 90 to 30 days the time after which the Commissioner of Motor Vehicles shall sell seized vehicles at public sale; reduces from 2 weeks to 1 week the number of required times the notice of such sale must appear in the newspapers. | Absolute | 103 |

| *Subject* | *Bill* | *Type of Veto* | *Page* |
|---|---|---|---|
| A. 242 | Requires a driver of a vehicle approaching or about to enter a traffic circle or traffic island to yield the right of way to any vehicle already traveling on such circle or around such island. | Absolute | 116 |
| A. 548 | Requires every school bus to be identified by the electrical identification and flashing warning lights required by law. | Absolute | 133 |
| A. 643 | Excludes "nonconventional type motor vehicles" from Motor Vehicle Certificate of Ownership Law. | Conditional | 19 |
| S. 147 | Enables the Motor Vehicle Director to issue special registration plates, bearing the amateur radio call letters, to an applicant who holds an unrevoked and unexpired amateur radio license issued by the FCC; effective July 1, 1964. | Absolute | 154 |
| S. 190 | Amends the "Motor Carriers Road Tax Act of 1963," by allowing a refund on overpurchases of motor fuel in New Jersey when the carrier is subjected to a road tax in another state. | Conditional | 57 |

**MUNICIPALITIES**

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| A. 318 | Permits a municipality to pay for court costs and counsel fees in connection with actions brought against members of the police department, when the decision is in favor of the policeman. | Absolute | 122 |
| A. 602 | Clarifies the division line between the Township of Freehold and the Township of Manalapan, both in the County of Monmouth. | Absolute | 137 |
| A. 659 | Permits the City of Plainfield to appoint members of its police and paid fire department who do not reside within the city; provided they live within a distance of not more than 5 miles from the police and fire headquarters. | Absolute | 145 |
| S. 70 | Permits municipalities to provide sick leave of absence with pay for members of the beach patrol who are seasonal employees if they have been employed as such for a period of not less than 10 years. | Absolute | 152 |
| S. 223 | Permits municipal engineers to enter upon any land, waters, or premises for the purpose of making surveys, borings or soundings before determining a final route for proposed improvement or works. | Conditional | 62 |
| S. 269 | Revises municipal tax foreclosure procedures with respect to statements of amount due, notices, service and redemption. | Pocket | 88 |

| *Subject* | *Bill* | *Type of Veto* | *Page* |
|---|---|---|---|
| A. 404 | Changes the standard for apportionment of appropriations to be raised for regional school districts from that based on "average daily enrollment," to "the number of pupils enrolled on the last school day of September of the current school year." | Conditional | 7 |
| A. 404 | Changes the standard for apportionment of appropriations to be raised for regional school districts from that based on "average daily enrollment," to "the number of pupils enrolled on the last school day of September of the current school year." | Absolute | 77 |
| A. 518 | Requires every school bus to be equipped with a convex mirror mounted at the hood or fender top height on the right or left side of the bus; excludes buses with engines mounted in the rear; effective January 1, 1966. | Absolute | 131 |
| S. 152 | Requires a board of education to bear the cost of the defense of any board member whenever a civil or a criminal action has been brought for any action, or omission, arising out of and in the course of the performance of his duties, where such action results in final disposition in favor of the member. | Conditional | 56 |
| S. 275 | Permits retired teachers, veterans, and other public pensioners to earn up to $1,800 annually as substitute teachers without forfeiture of pension. | Absolute | 164 |
| S. 284 | Validates certain proceedings at meetings or elections of school districts and any bonds or other obligations issued, or to be issued, pursuant to such proceedings. | Conditional | 76 |
| S. 309 | Declares it a disorderly persons offense to operate a school bus without proper lights. | Absolute | 167 |
| S. 344 | Requires all school children, except children of accredited representatives of foreign governments to whom the United States extends diplomatic immunity, to salute the flag and recite the pledge of allegiance on every school day. | Absolute | 169 |
| **STATE** | | | |
| A. 18 | Authorizes the State Highway Department to take over as a State Highway, Federal Aid Secondary Route No. 236, in Atlantic County. | Absolute | 97 |

| *Subject* | *Bill* | *Type of Veto* | *Page* |
|---|---|---|---|
| A. 44 | Designated as "The Riparian Land Commission Law," establishes the Riparian Lands Commission, within the Department of Conservation and Economic Development, consisting of 5 members appointed by the Governor, with Senate advice and consent, to administer the functions of the State in relation to riparian lands. | Absolute | 98 |
| A. 170 | Provides that escheated "personal property" shall also mean and include moneys deposited with any county welfare board for the account of any person who shall have died leaving no liens or next of kin or other person entitled to receive said moneys. | Absolute | 113 |
| A. 618 | Permits a student under the State Competitive Scholarships Act who initially elects and successfully continues in courses requiring more than 4 years to hold their scholarships throughout the full course. | Conditional | 18 |
| S. 54 | Requires the Director of the Division of Purchase and Property to prepare, on or before October 1, 1964, and on or before July 1 in each year thereafter, a master list of all real and personal property owned by the State. | Conditional | 41 |
| S. 97 | Requires 1 year State residence of child, of his parent, who applies for dependent children's assistance; permits aid if it is determined that the applicant did not come into the State for the purpose of receiving such assistance; if federal aid is not available to the State, or withdrawn, 5 years residence is required. | Pocket | 81 |
| S. 134 | Requires the approval of the State House Commission before any contract for a State expenditure for building construction over $500,000 is awarded, or is to be paid for from State bond sale receipts, and where extra work is ordered requiring an expenditure over 5% of the initial total; requires such approval before transfer of funds from one project to another. | Conditional | 54 |
| S. 304 | Establishes a 7 member State Insurance Commission in the Department of the Treasury, members appointed by the Governor, with the advice and consent of the Senate, to determine the method by which the State shall insure itself against losses; transfers the Bureau of Insurance and Special Services to the commission; effective July 1, 1964. | Pocket | 91 |
| SJR. 5 | Provides for a survey to be made by an independent organization or group, to be selected by the Governor, to make a comparison of the salaries of representative jobs in State government against similar jobs in | Pocket | 95 |