ACTS

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OF THE

STATE OF NEW JERSEY



2021

New Jersey State Library

CHAPTER 134

AN ACT concerning hospitals and supplementing P.L.1971, c.136 (C.26:2H-1 et seq.).

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

C.26:2H-12.109 Licensed general acute care hospital addressing homelessness, housing insecurity.

1. a. A general acute care hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) may adopt as part of its mission the goal of addressing issues related to homelessness or housing insecurity. A hospital that chooses to address issues related to homelessness or housing insecurity as part of its mission pursuant to this section shall be authorized to construct, rehabilitate, or remediate housing, or enter into a partnership or other contractual arrangement therefor, and provide wrap-around services for individuals who are homeless or housing insecure, or enter into a partnership or other contractual arrangement therefor, who are treated at the hospital, which wrap-around services may include:

(1) referrals to outpatient primary care and behavioral health care services;

(2) appropriate follow-up care and treatment management assistance;

(3) assistance identifying and procuring sources of health benefits coverage, including, but not limited to, coverage under the State Medicaid and NJ FamilyCare programs pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.2005, c.156 (C.30:4J-8 et al.) ; and

(4) assistance in identifying and accessing appropriate social services, including, but not limited to, food, transportation, housing, employment, and child care assistance.

Such hospital shall notify the Department of Health as to the wrap-around services intended to be provided pursuant to this section and if any such service is subject to the Department of Health's healthcare facility licensing requirements the service shall be licensed prior to it being provided. To the extent practicable, a hospital may collaborate with a regional health hub to provide the wrap-around services described in paragraphs (1) through (4) of this subsection.

b. Housing for individuals who are homeless or housing insecure constructed, rehabilitated, or remediated by a hospital, or its partners or contractors, pursuant to subsection a. of this section shall be:

(1) deemed a permitted use in all residential and nonresidential districts of a municipality and shall be exempt from local zoning restrictions ; and

(2) exempt from the Department of Health's health care facility licensing requirements, provided that, if wrap-around services provided in connection with the housing are provided in a health clinic or other comparable health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the clinic or facility shall comply with the department's health care facility licensing requirements.

c. Commencing one year after the date a hospital, or its partners or contractors, first constructs, rehabilitates, or remediates housing and begins providing wrap-around services for individuals who are homeless or housing insecure pursuant to subsection a. of this section, and annually thereafter, the hospital shall report to the Department of Health concerning any reductions in the number of inpatient admissions and emergency department visits at the hospital and increased usage of preventative care related to the construction, rehabilitation, or remediation of housing and the provision of wrap-around services by the hospital or its partners or contractors, to individuals who are homeless or housing insecure over the previous year. The report shall include data based on each payer type for inpatient admissions and emergency department visits, including charity care and, to the extent practicable, shall include input from local stakeholders, including regional health hubs, on program design and implementation. The report may be shared with regional health hubs to assist the Department of Health in program design, population analysis, strategic planning, and other appropriate functions.

d. The Department of Health shall annually provide to the Legislature a report aggregating the data contained in the reports submitted to the department by a hospital pursuant to subsection c. of this section for five years following the effective date of P.L.2021, c.134 (C.26:2H-12.109) and quinquennially thereafter.

e. As used in this section, "individual who is homeless or housing insecure" means a person or household who is homeless or experiences periods of homelessness as either of those terms is defined pursuant to the federal McKinney-Vento Homeless Assistance Act, (42 U.S.C. s.11301 et seq.), the Qualified Allocation Plan adopted by the New Jersey Housing and Mortgage Finance Agency, or any other State or federal program specifically designed to assist such persons or households; or a person or household eligible for and occupying very-low-income housing, low-income housing, or moderate-income housing as those terms are defined in section 4 of P.L.1985, c.222 (C.52:27D-304).

f. This section shall not be construed to invalidate or otherwise limit the credit or bonus credit for which a municipality may otherwise be eligible to receive in accordance with P.L.1985, c.222 (52:27D-301 et seq.) or any court order issued or settlement agreement executed consistent therewith.

g. This section shall not be construed to invalidate or otherwise limit the authority or ability to facilitate or enter into such arrangements, or agreements, or projects under existing law.

2. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 135

AN ACT establishing the New Jersey Rare Disease Advisory Council and supplementing Title 26 of the Revised Statutes.

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

C.26:2AA-7 Findings, declarations relative to orphan disease.

1. The Legislature finds and declares:

a. A rare disease is defined as a disease that affects fewer than 20,000 people. Rare diseases are sometimes called orphan diseases. There are 7,000 rare diseases affecting approximately 25 to 30 million Americans;

b. The exact cause for many rare diseases remains unknown. However, 80 percent of rare diseases are genetic in origin and can be linked to mutations in a single gene or in multiple genes which can be passed down from generation to generation;

c. A person suffering with a rare disease faces a wide range of challenges, including delays in obtaining a diagnosis; being misdiagnosed; shortages of medical specialists who can provide treatment for rare diseases; and the lack of therapies and medication that are used by doctors to treat rare diseases;

d. There is a significant link between rare disease and the coronavirus 2019 (COVID-19) pandemic which heightens the importance of the establishment of an advisory council to examine the issues that affect persons with rare diseases in the State. Many people who live with rare diseases are immunosuppressed and have respiratory and neurologic issues that make the consequences of the virus much more severe for them;

e. Additionally, those with rare diseases rely on the health care system much more than those who do not have chronic and rare conditions. In as much as they go to their physicians' offices, medical testing sites, and hospitals more often than most, their risk of exposure to the COVID-19 virus is much greater;

f. People who live with rare diseases are impacted by potential shortages of life-saving medications and supplies due to changes in supply chain resulting from the COVID-19 pandemic. People with rare diseases also rely on the support of their families and home health aides, and because of the social distancing and quarantining, the pandemic puts them at risk of not having the support they need in accessing services and treatment;

g. Researchers have made considerable progress in developing diagnostic tools and treatment protocols for rare diseases and discovering methods of prevention. However, much more remains to be done in the search for new therapeutics and in understanding the link between rare disease and pandemics, and

h. It is therefore an appropriate public policy for the State of New Jersey to establish an advisory body, whose membership would be comprised of qualified professionals and persons living with rare diseases, that would be tasked to educate medical professionals, government agencies, and the public about the importance of rare diseases as an important public health issue, and to encourage research in the development of new treatments for rare diseases.

C.26:2AA-8 New Jersey Rare Disease Advisory Council, established.

2. There is established the New Jersey Rare Disease Advisory Council in the Department of Health which shall advise the Legislature, State departments, agencies, commissions, and authorities, and private agencies providing services for persons diagnosed with a rare disease.

a. The advisory council shall consist of 20 members as follows:

(1) the Commissioners of Banking and Insurance, Health, Human Services, and the Executive Director of the New Jersey Office on Minority and Multicultural Health, or their designees, as ex officio members;

(2) two members of the public, one of whom shall be appointed by the Governor upon recommendation of the President of the Senate, and one of whom shall be appointed by the Minority Leader of the Senate which public members shall be any of the following: an epidemiologist, a registered nurse or nurse practitioner licensed to practice in this State with experience in providing care to patients with rare diseases, or a pediatrician or other

physician licensed to practice in this State with expertise in providing care to patients with rare diseases;

(3) two members of the public, one of whom shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly, and one of whom shall be appointed by the Minority Leader of the General Assembly which public members shall be any of the following: an epidemiologist, a registered nurse or nurse practitioner licensed to practice in this State with experience in providing care to patients with rare diseases, or a pediatrician or other physician licensed to practice in this State with expertise in providing care to patients with rare diseases; and

(4) 12 public members to be appointed by the Governor, who shall include: one physician licensed to practice in this State who has expertise in treating patients with rare diseases, and is associated with the research department of an academic institution in this State; a representative of general hospital or hospital system in this State recommended by the New Jersey Hospital Association; a representative of federally qualified health center in this State recommended by the New Jersey Primary Care Association; a geneticist licensed to practice in this State; a genetic counselor who has experience in providing services to persons diagnosed with a rare disease, their families, or their caregivers or care partners; a representative of the health insurance industry recommended by the New Jersey Association of Health Plans; a representative of the biotechnology industry or pharmaceutical industry who has expertise in rare diseases recommended by BIO NJ; a pharmacist licensed in this State who has expertise in rare diseases; a representative of the medical technology industry who has expertise in rare diseases and is recommended by the HealthCare Institute of New Jersey; one representative of a rare disease patient advocacy organization; one person, age 18 years or older, who has a rare disease; and one caregiver or care partner for a patient or partner with a rare disease.

b. Public members of the advisory council shall serve for a term of three years, except that of the initial appointments, five public members shall serve for one year, five public members shall serve for two years, and six public members shall serve for three years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments were made. The public members of the council shall serve without compensation but may be reimbursed for traveling and other miscellaneous expenses necessary to perform their duties within the limits of funds made available to the council for its purposes.

c. The advisory council shall organize as soon as practicable after the appointment of a majority of its public members, and the Governor shall select a chairperson and vice-chairperson from among its members. The chairperson shall appoint a secretary who need not be a member of the council.

d. The advisory council shall meet a minimum of three times a year but may meet more often at the call of its chair. The council may hold hearings at the times and in the places it deems appropriate and necessary to fulfill its charge. The council shall be entitled to call to its assistance, and avail itself of the services of the employees of, any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes.

e. The Department of Health shall maintain oversight of the advisory council and may delegate the administration thereof to a State research university or institution with expertise in either the clinical treatment of rare disease patients, research of rare diseases, or health care policy pertaining to rare disease patients. The Department of Health may issue a request, within 180 days after the effective date of this act, for proposals for a location for the advisory council to operate and for staff and resources to support the operations of the council. The Department of Health shall provide staff services to the advisory council if the proposals submitted to the department are not sufficient to meet the needs of the council.

C.26:2AA-9 Purpose of council.

3. The purpose of the advisory council shall be to:

a. act as the advisory body on rare diseases to the Legislature and State departments, agencies, commissions, authorities, and private agencies that provide services to, or are charged with the care of, persons with rare diseases;

b. conduct a thorough and comprehensive study of all issues relating to the quality of and access to treatment and services provided to persons with rare diseases in this State, including the link between rare diseases and the COVID-19 pandemic, and to develop policy recommendations on those issues;

c. develop recommendations for best practice standards encompassing the most effective strategies for recognizing and treating rare diseases in New Jersey;

d. identify effective research-based strategies that have been developed to help diagnose, treat, and prevent rare diseases;

e. develop effective strategies to raise public awareness of rare diseases in this State;

f. evaluate and make recommendations to improve:

(1) the State's Newborn Screening Program in the Department of Health; and

(2) State Medicaid coverage for approved treatments and medications for patients with a rare disease;

g. research and make policy recommendations to the Legislature on access to health insurance specialists and other needed services for patients with a rare disease; and

h. identify, with assistance from the public, additional research topics on rare disease to inform future studies the council may conduct.

C.26:2AA-10 Report to Governor, Legislature.

4. The advisory council shall report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, no later than December 31st, on a biennial basis, starting in the second year next following the enactment of this act, on the activities of the advisory council and its findings and recommendations on issues relating to the quality of, and access to, treatment and services for persons with rare diseases in this State.

5. The Commissioner of Health, pursuant to the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.) may adopt rules and regulations necessary to effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 136

AN ACT concerning the assessment of real property and amending various parts of the statutory law.

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

1. Section 10 of P.L.2017, c.306 (C.54:4-23b) is amended to read as follows:

C.54:4-23b Inspections of real property for purposes of reassessment.

10. a. Regarding inspections of real property for purposes of a municipal-wide reassessment pursuant to R.S.54:4-23, in the case of a municipality located in a county wherein the county board of taxation is participating in the demonstration program established in section 4 of the "Real Property Assessment Demonstration Program," P.L.2013, c.15 (C.54:1-104), in the case of a county operating under the "Property Tax Assessment Reform Act," P.L.2009, c.118 (C.54:1-86 et seq.), and in the case

of a county that has adopted, by resolution, the provisions of section 1 of P.L.2018, c.94 (C.54:1-105), the assessor shall make three good-faith attempts to physically inspect the interior of each of the properties in the municipality not later than December 31 of the year immediately preceding the year of the implementation of the proposed district-wide reassessment. Such inspections may be performed in an ongoing assessment cycle. If, after the third attempt to inspect the interior of the premises, access to the interior of the premises has not been granted by the property owner, the assessor shall assess the property using other observations and sources, including information on the property record card maintained by the assessor.

As used in this section, "good-faith attempt to physically inspect" shall mean that the assessor, an employee of the municipality acting on behalf of the assessor, or a representative of a revaluation company or other company hired by the municipality to provide internal inspection services, shall physically arrive at the parcel of real property and request entry to the interior of the property. If that person is unable to gain entry to the property to perform an interior inspection, the person shall complete the exterior inspection and shall leave a notice affixed to the front door of the property stating that an attempt was made to inspect the interior of the property, with the appropriate contact information prominently displayed on the notice.

b. Notwithstanding the provisions of this section, in any municipality implementing a revaluation program approved by the Director of the Division of Taxation pursuant to P.L.1971, c.424 (C.54:1-35.35 et seq.), district-wide reassessment program, compliance plan, or other form of municipal-wide assessment review that requires the revision of all property assessments to current market value, that is approved by the county board of taxation at the taxpayer's discretion, the assessor may perform the internal inspections described in subsection a. of this section in a virtual manner, utilizing smartphone technology and protocols adopted by the county board of taxation. No such video recordings may be retained by the assessor. This virtual internal inspection alternative shall be available to all assessment function inspections within the county, including, but not limited to, revaluations, reassessments, the annual reassessment, and inspections related to added or omitted assessments.

2. R.S.54:3-21 is amended to read as follows:

Appeal by taxpayer or taxing district; petition; complaint; exception.

54:3-21. a. (1) Except as provided in subsection b. of this section a taxpayer feeling aggrieved by the assessed valuation or exempt status of the

taxpayer's property or a taxing district which may feel discriminated against by the assessed valuation or exempt status of property in the taxing district, or by the assessed valuation or exempt status of property in another taxing district in the county, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds $1,000,000. In a taxing district where a municipal-wide revaluation or municipal-wide reassessment has been implemented, a taxpayer or a taxing district may appeal before or on May 1 to the county board of taxation by filing with it a petition of appeal or, if the assessed valuation of the property subject to the appeal exceeds $1,000,000, by filing a complaint directly with the State Tax Court. Within ten days of the completion of the bulk mailing of notification of assessment, the assessor of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. If a county board of taxation completes the bulk mailing of notification of assessment, the tax administrator of the county board of taxation shall within ten days of the completion of the bulk mailing prepare and keep on file a certification setting forth the date on which the bulk mailing was completed. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. An appeal to the Tax Court by one party in a case in which the Tax Court has jurisdiction shall establish jurisdiction over the entire matter in the Tax Court. All appeals to the Tax Court hereunder shall be in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

If a petition of appeal or a complaint is filed on April 1 or during the 19 days next preceding April 1, a taxpayer or a taxing district shall have 20 days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the Tax Court, as appropriate.

(2) With respect to property located in a county participating in the demonstration program established in section 4 of P.L.2013, c.15 (C.54:1-104), a property located in a county operating under the "Property Tax Assessment Reform Act," P.L.2009, c.118 (C.54:1-86 et seq.), or a property located in a county that has adopted, by resolution, the provisions of section 1 of P.L.2018, c.94 (C.54:1-105), and except as provided in subsection b. of this

section, a taxpayer feeling aggrieved by the assessed valuation or exempt status of the taxpayer's property or a taxing district which may feel discriminated against by the assessed valuation or exempt status of property in the taxing district, or by the assessed valuation or exempt status of property in another taxing district in the county, may on or before January 15, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever date is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer, or taxing district, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever date is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds $1,000,000.

If a petition of appeal is filed on January 15 or during the 19 days next preceding January 15, or a complaint is filed with the Tax Court on April 1 or during the 19 days next preceding April 1, a taxpayer or a taxing district shall have 20 days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the Tax Court, as appropriate.

Within 10 days of the completion of the bulk mailing of notification of assessment, the assessor of the taxing district shall file with the county board of taxation a certification setting forth the date on which the bulk mailing was completed. If a county board of taxation completes the bulk mailing of notification of assessment, the tax administrator of the county board of taxation shall within 10 days of the completion of the bulk mailing prepare and keep on file a certification setting forth the date on which the bulk mailing was completed. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. An appeal to the Tax Court by one party in a case in which the Tax Court has jurisdiction shall establish jurisdiction over the entire matter in the Tax Court. All appeals to the Tax Court hereunder shall be in accordance with the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

b. No taxpayer or taxing district shall be entitled to appeal either an assessment or an exemption or both that is based on a financial agreement subject to the provisions of the "Long Term Tax Exemption Law" under the appeals process set forth in subsection a. of this section.

c. In the case of a municipality located in a county wherein the county board of taxation is participating in the demonstration program established in section 4 of the "Real Property Assessment Demonstration Program," P.L.2013, c.15 (C.54:1-104), absent good cause, a property owner shall not be entitled to appeal an assessment on a parcel of real property if the assessor's or the county

board of taxation's request to internally inspect the property , made after the appeal is filed, has been refused by the property owner.

3. R.S.54:3-22 is amended to read as follows:

Hearing of appeals; witnesses; evidence; revision of taxable value; grounds; computation.

54:3-22. a. The board shall thereupon make such order respecting the time and manner for hearing the appeal as it may deem just, and shall summarily hear and determine the appeal, and revise and correct the assessment in accordance with the value prescribed by law. All appeals filed pursuant to the provisions of chapter 3 of Title 54 of the Revised Statutes shall be heard and determined by the board. It may compel the attendance of witnesses, the production of books and papers before it, examine witnesses or cause witnesses to be examined under oath before it, which oath may be administered by a member of the board.

b. In any proceedings before the board where deeds or other instruments of conveyance do not state the true consideration or sale price of the property, which is the subject of appeal, the realty transfer fee paid upon the recording of such deeds or instruments as well as an affidavit of consideration attached to and filed with any such deed or instrument shall be admitted as prima facie evidence of the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid for such transfer of realty.

c. Whenever the county board of taxation is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true value exceeds the upper limit or falls below the lower limit of the common level range, it shall revise the taxable value of the property by applying the average ratio to the true value of the property except as hereinafter provided.

d. If the average ratio is below the county percentage level and the ratio of the assessed value of the subject property to its true value exceeds the county percentage level, the county board of taxation shall reduce the taxable value of the property by applying the average ratio to the true value of the property.

e. If both the average ratio and the ratio of the assessed value of the subject property to its true value exceed the county percentage level, the county board of taxation shall revise the taxable value of the property by applying the county percentage level to the true value of the property.

f. The provisions of this section shall not apply to any appeal from an assessment of real property taken with respect to the tax year in which the taxing district shall have completed and put into operation a district-wide revaluation program approved by the Director of the Division of Taxation

pursuant to P.L.1971, c.424 (C. 54:1-35.35 et seq.), district-wide reassessment program, compliance plan, or other form of municipal-wide assessment review that requires the revision of all property assessments to current market value, that is approved by the county board of taxation pursuant to R.S.54:4-23.

g. At the property owner's written request submitted at the time of filing, the county board of taxation may proceed with a full evidentiary hearing based on the evidence submitted at least seven full days prior to the original appeal hearing date, without the attendance of the property owner. The ability to proceed based on the evidence timely submitted is at the sole discretion of the property owner. The attendance of the author of any expert appraisal or report submitted as evidence in the appeal, if otherwise required, shall not be waived by the taxpayer's decision not to attend the appeal hearing.

h. At the property owner's written request submitted at the time of filing, assessment appeal hearings conducted by the county board of taxation may be conducted virtually, using conference call technology and protocols adopted by the county board of taxation. The county board of taxation may relax the requirement of the time of the taxpayer's appeal as the needs of justice allow.

4. R.S.54:51A-6 is amended to read as follows:

Judgment revising taxable value of property; reduction of value; applicability of section.

54:51A-6. a. Whenever the tax court is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true value exceeds the upper limit or falls below the lower limit of the common level range, it shall enter judgment revising the taxable value of the property by applying the average ratio to the true value of the property except as hereinafter provided.

b. If the average ratio is below the county percentage level and the ratio of the assessed value of the subject property to its true value exceeds the county percentage level, the tax court shall enter judgment revising the taxable value of the property by applying the average ratio to the true value of the property.

c. If both the average ratio and the ratio of the assessed value of the subject property to its true value exceed the county percentage level, the tax court shall enter judgment revising the taxable value of the property by applying the county percentage level to the true value of the property.

d. The provisions of this section shall not apply to any proceeding to review an assessment of real property taken with respect to the tax year in which the taxing district shall have completed and put into operation a district-wide revaluation program approved by the Director of the Division of Taxation pursuant to P.L.1971, c. 424 (C. 54:1-35.35 et seq.), district-wide

reassessment program, compliance plan, or other form of municipal-wide assessment review that requires the revision of all property assessments to current market value, that is approved by the county board of taxation pursuant to R.S.54:4-23.

5. R.S.54:4-38 is amended to read as follows:

Public inspection notice; advertisement; appeals.

54:4-38. a. Except as provided in subsection b. of this section, every assessor, at least ten days before filing the complete assessment list and duplicate with the county board of taxation, and before annexing thereto his affidavit as required in section 54:4-36 of this title, shall notify each taxpayer of the current assessment and preceding year's taxes and give public notice by advertisement in at least one newspaper circulating within his taxing district of a time and place when and where the assessment list may be inspected by any taxpayer for the purpose of enabling the taxpayer to ascertain what assessments have been made against him or his property and to confer informally with the assessor as to the correctness of the assessments, so that any errors may be corrected before the filing of the assessment list and duplicate. Thereafter, the assessor shall notify each taxpayer by mail within 30 days of any change to the assessment. This notification of change of assessment shall contain the prior assessment and the current assessment. Any notice issued by the assessor shall contain information instructing taxpayers on how to appeal their assessment along with the deadline to file an appeal, printed in boldface type.

b. In the case of a municipality located in a county where the county board of taxation is participating in the demonstration program established in section 4 of P.L.2013, c.15 (C.54:1-104), in the case of a county operating under the "Property Tax Assessment Reform Act," P.L.2009, c.118 (C.54:1-86 et seq.), and in the case of a municipality located in a county that has adopted, by resolution, the provisions of section 1 of P.L.2018, c.94 (C.54:1-105), every assessor, before filing the preliminary assessment list with the county board of taxation pursuant to subsection b. of R.S.54:4-35, shall notify each taxpayer of the preliminary assessment and preceding year's taxes and give public notice by advertisement in at least one newspaper circulating within his taxing district of a time and place when and where the assessment list may be inspected by any taxpayer for the purpose of enabling the taxpayer to ascertain what assessments have been made against the taxpayer or the taxpayer's property. Thereafter, the assessor shall notify each taxpayer by mail within 30 days of any change to the assessment. This notification of

change of assessment shall contain the prior assessment and the current assessment. Any notice issued by the assessor shall contain information instructing taxpayers on how to appeal their assessment along with the deadline to file an appeal, printed in boldface type.

The notification required by this section shall satisfy any notice requirement to a property owner in a municipality located in a county wherein the county board of taxation is participating in the "Real Property Assessment Demonstration Program" established in section 4 of P.L.2013, c.15 (C.54:1-104) concerning the assessment of that property owner's preliminary assessment value for the tax year.

6. Section 32 of P.L.1991, c.75 (C.54:4-38.1) is amended to read as follows:

C.54:4-38.1 Notice of current assessment, preceding year's taxes, changed assessments; deadline for appeal.

32. a. Except as provided in subsection b. of this section, every assessor, prior to February 1, shall notify by mail each taxpayer of the current assessment and preceding year's taxes. Thereafter, the assessor or county board of taxation shall notify each taxpayer by mail within 30 days of any change to the assessment. This notification of change of assessment shall contain the prior assessment and the current assessment. The director shall establish the form of notice of assessment and change of assessment. Any notice issued by the assessor or county board of taxation shall contain information instructing taxpayers on how to appeal their assessment along with the deadline to file an appeal, printed in boldface type.

b. In the case of a municipality located in a county where the county board of taxation is participating in the demonstration program established in section 4 of P.L.2013, c.15 (C.54:1-104), in the case of a county operating under the "Property Tax Assessment Reform Act," P.L.2009, c.118 (C.54:1-86 et seq.) and in the case of a municipality located in a county that has adopted, by resolution, the provisions of section 1 of P.L.2018, c.94 (C.54:1-105), every assessor, on or before November 15 of the pretax year, shall notify by mail each taxpayer of the preliminary assessment and preceding year's taxes. Thereafter, the assessor or county board of taxation shall notify each taxpayer by mail within 30 days of any change to the assessment which has occurred as the result of a municipal-wide revaluation or reassessment of real property within the municipality. This notification of change of assessment shall contain the prior assessment and the current assessment. The director shall establish the form of notice of assessment and change of assessment. Any

notice issued by the assessor or county board of taxation shall contain information instructing taxpayers on how to appeal their assessment along with the deadline to file an appeal, printed in boldface type. The notification required by this section shall satisfy any notice requirement to a property owner in a municipality located in a county wherein the county board of taxation is participating in the "Real Property Assessment Demonstration Program" established in section 4 of P.L.2013, c.15 (C.54:1-104) concerning the assessment of that property owner's preliminary assessment value for the tax year.

c. The county board of taxation of the county participating in the real property assessment program established in section 4 of the "Real Property Assessment Demonstration Program," P.L.2013, c.15 (C.54:1-104) shall make the preliminary data electronically accessible to the public by posting the data in searchable form on the county's website not later than 15 business days after the submission of the preliminary data.

7. Section 1 of P.L.1945, c.260 (C.54:4-35.1) is amended to read as follows:

C.54:4-35.1 Material depreciation of structure; determination of value.

1. a. When any parcel of real property contains any building or other structure which has been destroyed, consumed by fire, demolished, or altered in such a way that its value has materially depreciated, either intentionally or by the action of storm, fire, cyclone, tornado, or earthquake, or other casualty, which depreciation of value occurred after October 1 in any year and before January 1 of the following year, the assessor shall, upon notice thereof being given to him by the property owner prior to January 10 of that year, and after examination and inquiry, determine the value of such parcel of real property as of that January 1, and assess the same according to such value.

b. (1) In the case of a county participating in the demonstration program established by section 4 of P.L.2013, c.15 (C.54:1-104), a county operating under the "Property Tax Assessment Reform Act," P.L.2009, c.118 (C.54:1-86 et seq.), and a county that has adopted, by resolution, the provisions of section 1 of P.L.2018, c.94 (C.54:1-105), when any parcel of real property contains any building or other structure which has been destroyed, consumed by fire, demolished, or altered in such a way that its value has materially depreciated, either intentionally or by the action of storm, fire, cyclone, tornado, or earthquake, or other casualty, which depreciation of value occurred after October 1 in any year and before May 1 of the following year, the assessor shall, upon notice thereof being given to him by the property

owner prior to May 3 of that year, and after examination and inquiry, determine the value of the parcel of real property as of that May 1, and assess the same according to such value within the final tax list delivered to the county board of taxation on or before May 5 of that year.

(2) To properly capture the value of the building or structure from January 1 to the date of the depreciation of the building or structure, the assessor's added assessment list shall include an improvement value that reflects the prorated value of the building or structure as of January 1 for the number of days prior to the date of the depreciation of the building or structure.

8. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 137

AN ACT concerning the effective date of a new law on certain State contracts for social services and amending P.L.2021, c.1.

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

1. Section 5 of P.L.2021, c.1 is amended to read as follows:

5. This act shall take effect immediately and shall apply to all contracts entered into or renewed with an effective date after June 30, 2021. Section 3 of this act shall expire on the 366th day following the end of the public health emergency declared by the Governor in Executive Order No. 103 of 2020 and as extended.

2. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 138

AN ACT concerning the salary of the Director of the Division of Investment in the Department of the Treasury, and amending P.L.1950, c.270.

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

1. Section 6 of P.L.1950, c.270 (C.52:18A-84) is amended to read as follows:

C.52:18A-84 Director of Division of Investment.

6. The Division of Investment established hereunder shall be under the immediate supervision and direction of a director, who shall be a person qualified by training and experience to direct the work of such division. The director of such division shall be appointed by the State Treasurer from a list of one or more persons qualified for such office and submitted to the State Treasurer by the State Investment Council; provided, that the State Treasurer may require the submission of an additional list or lists. Each list so submitted by the council shall also contain the qualifications of each person whose name appears thereon who shall be certified by the council to the State Treasurer as qualified for the office of director of such division. The detailed qualifications of each person so named by the council shall be contained in such certification.

Any director so appointed shall serve without term but may be removed from office (a) by the State Treasurer, for cause, upon notice and opportunity to be heard at a public hearing, or (b) by the State Investment Council, if seven or more members thereof shall vote for such director's removal from office.

Any vacancy occurring in the office of the Director of the Division of Investment shall be filled in the same manner as the original appointment.

The director of said division shall devote his entire time and attention to the duties of his office and shall not be engaged in any other occupation or profession. Notwithstanding any other provision of law to the contrary, the State Treasurer shall determine the salary of the director.

2. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 139

AN ACT concerning the disclosure of voter and motor vehicle information for voter registration purposes, amending various parts of the statutory law, and supplementing Title 19 and Title 39 of the Revised Statutes.

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

C.19:31-34.1 Secretary of State as member of non-profit organization to improve voter registration accuracy.

1. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the Secretary of State may become a member, on behalf of the State of New Jersey, of a non-profit organization comprised solely of United States territorial governmental units, states, and the District of Columbia for the purpose of improving the accuracy of voter registration information and increasing access to voter registration for eligible individuals. The Secretary of State may share, transmit, or receive confidential, personal, or personally identifiable information, excluding information unrelated to voter eligibility, for those purposes. The Secretary of State shall not share or transmit documentation or other information that indicates that an individual is not a citizen of the United States. Information shared, transmitted, or received, including information from the non-profit organization, in carrying out the purposes of this section shall not be considered a government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to government records.

C.39:2-3.9 New Jersey Motor Vehicle Commission sharing certain information with non-profit organization to improve voter registration accuracy.

2. a. Notwithstanding the provisions of any law, rule, or regulation to the contrary, and to the extent not otherwise inconsistent with the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, and upon and consistent with a fully executed membership agreement, the New Jersey Motor Vehicle Commission may share confidential, personal, or personally identifiable information, excluding information unrelated to voter eligibility, for use by a non-profit organization comprised solely of United States territorial governmental units, states, and the District of Columbia for the purpose of improving the accuracy of voter registration information and increasing access to voter registration for eligible individuals. The sharing of that information shall not be considered a violation of any other State law.

b. The sharing of information for the purpose provided in subsection a. of this section shall be deemed a permissible use of the information by the Department of State and the Division of Elections in carrying out their functions and a permissible use of the information by a private entity acting on behalf of the Department of State and the Division of Elections in carrying out their functions. The information shall be transmitted in a manner consistent with an applicable memorandum of understanding.

c. The New Jersey Motor Vehicle Commission shall not share or transmit documentation or other information (1) concerning an individual who does not have a social security number or has submitted proof of identity to the commission using an Individual Taxpayer Identification Number, (2) that indicates that an individual is not a citizen of the United States, (3) that is a photo of a person, or (4) that includes a person's social security number beyond the last four digits thereof.

The information shared, transmitted, or received pursuant to this section shall not be considered a government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to government records.

3. Section 2 of P.L.1997, c.188 (C.39:2-3.4) is amended to read as follows:

C.39:2-3.4 Disclosure of personal information connected with motor vehicle record.

2. a. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary, except as provided in this act, the New Jersey Motor Vehicle Commission and any officer, employee or contractor thereof shall not knowingly disclose or otherwise make available to any person personal information about any individual obtained by the commission in connection with a motor vehicle record.

b. A person requesting a motor vehicle record including personal information shall produce proper identification and shall complete and submit a written request form provided by the chief administrator for the commission's approval. The written request form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the requestor's name and address; the requestor's driver's license number or corporate identification number; the requestor's reason for requesting the record; the driver's license number or the name, address and birth date of the person whose driver record is requested; the license plate number or VIN number of the vehicle for which a record is requested; any additional information determined by the chief administrator to be appropriate and the requestor's certification as to the truth of the foregoing statements. Prior to the approval of the written request form, the commission may also require the requestor to submit documentary evidence supporting the reason for the request.

In lieu of completing a written request form for each record requested, the commission may permit a person to complete and submit for approval of the chief administrator or the chief administrator's designee, on a case by case basis, a written application form for participation in a public information

program on an ongoing basis. The written application form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the applicant's name, address and telephone number; the nature of the applicant's business activity; a description of each of the applicant's intended uses of the information contained in the motor vehicle records to be requested; the number of employees with access to the information; the name, title, and signature of the authorized company representative; and any additional information determined by the chief administrator to be appropriate. The chief administrator may also require the applicant to submit a copy of its business credentials, such as a license to do business or a certificate of incorporation. Prior to approval by the chief administrator or the chief administrator's designee, the applicant shall certify in writing as to the truth of all statements contained in the completed application form.

c. Personal information shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls or advisories; performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; maintenance of voter registration information; and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, Pub.L.85-506, the Motor Vehicle Information and Cost Saving Act, Pub.L.92-513, the National Traffic and Motor Vehicle Safety Act of 1966, Pub.L.89-563, the Anti-Car Theft Act of 1992, Pub.L.102-519, and the Clean Air Act, Pub.L.88-206, and may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency in carrying out its functions, or any private person or entity acting on behalf of a federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and the removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(a) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(b) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual.

(4) For use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, State, or local court or agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, State, or local court.

(5) For use in educational initiatives, research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals and, in the case of educational initiatives, only to organ procurement organizations as aggregated, non-identifying information.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the "Commercial Motor Vehicle Safety Act," 49 U.S.C.App.s.2710 et seq.

(9) For use in connection with the operation of private toll transportation facilities.

(10) For use by any requestor, if the requestor demonstrates it has obtained the notarized written consent of the individual to whom the information pertains.

(11) For product and service mail communications from automotive-related manufacturers, dealers and businesses, if the commission has implemented methods and procedures to ensure that:

(a) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

(b) product and service mail communications from automotive-related manufacturers, dealers and businesses will not be directed at individuals who exercise their option under subparagraph (a) of this paragraph.

(12) For use by an organ procurement organization designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey, or any donor registry established by any such organization, exclusively for the purposes of determining, verifying, and recording organ and tissue donor designation and identity. For these purposes, an organ procurement organization shall

have electronic access at all times, without exception, to real-time organ donor designation and identification information. An organ procurement organization may also have information for research activities, pursuant to paragraph (5) of subsection c. of this section.

(13) As provided in section 2 of P.L.2021, c.139 (C.39:2-3.9).

d. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a person authorized to receive personal information under paragraphs (1) through (10) of subsection c. of this section may resell or redisclose the personal information only for a use permitted by paragraphs (1) through (10) of subsection c. of this section subject to regulation by the commission. A person authorized to receive personal information under paragraph (11) of subsection c. of this section may resell or redisclose the personal information pursuant to paragraph (11) of subsection c. of this section subject to regulation by the commission. An organization authorized to receive personal information under paragraph (12) of subsection c. of this section may redisclose the personal information only for the purposes set forth in that paragraph.

e. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a person authorized to receive personal information under this section who resells or rediscloses personal information covered by the provisions of P.L.1997, c.188 (C.39:2-3.3 et seq.) shall keep for a period of five years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and shall make such records available to the commission upon request. Any person who receives, from any source, personal information from a motor vehicle record shall release or disclose that information only in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.).

f. The release of personal information under this section shall not include an individual's social security number except in accordance with applicable State or federal law.

g. Notwithstanding any provision to the contrary, the commission shall not use, or disclose to any federal, State, or local law enforcement any motor vehicle record containing personal information, or any personal information, as this term is defined in section 1 of P.L.1997, c.188 (C.39:2-3.3), for any purposes related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, lawful court order, or subpoena, except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law.

When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

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

Licensing of drivers.

39:3-10. a. A person shall not drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, or a probationary or basic driver's license issued to that person in accordance with this article.

b. A person under 18 years of age shall not be issued a basic license to drive motor vehicles, and a person shall not be issued a validated permit, including a validated examination permit, until the applicant has passed a satisfactory examination and other requirements as to the applicant's ability as an operator. The examination shall include: a test of the applicant's vision; the applicant's ability to understand traffic control devices; the applicant's knowledge of safe driving practices, including the dangers of driving a vehicle in an aggressive manner, which shall include, but not be limited to, unexpectedly altering the speed of a vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, and following another vehicle too closely; the applicant's knowledge of operating a motor vehicle in a manner that safely shares the roadway with pedestrians, cyclists, skaters, riders of motorized-scooters, and other non-motorized vehicles, which shall include, but not be limited to, passing a cyclist on the roadway, recognizing bicycle lanes, navigating intersections with pedestrians and cyclists, and exiting a vehicle without endangering pedestrians and cyclists; the applicant's knowledge of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle; the applicant's knowledge of the dangers of carbon monoxide poisoning from motor vehicles and techniques for the safe operation and proper maintenance of a motor vehicle; the applicant's knowledge of portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant; and the applicant's knowledge of the laws and ordinary usages of the road. The examination shall be made available in English and each of the three languages, other than English, most commonly spoken in the State, as determined by the chief administrator. The chief administrator shall

periodically, and at least every five years, verify the three languages, other than English, most commonly spoken in the State.

c. A person shall not sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1).

Prior to taking an examination for any permit, a person shall watch a video created by the commission, in conjunction with the Attorney General, explaining the rights and responsibilities of a driver stopped by a law enforcement officer. The video shall be used for informational purposes only and shall not be used in any criminal proceeding involving a driver stopped by a law enforcement officer.

The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a probationary license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. During the road test, an applicant may use a rear visibility system, parking sensors, or other technology installed on the motor vehicle that enables the applicant to view areas directly behind the vehicle or alerts the applicant of obstacles while parking.

d. A person shall not sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve

locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner, and other motorists. New locations for the road test shall not be approved unless the test can be given on public streets.

e. A person who successfully completes a road test for a motorcycle license or a motorcycle endorsement when operating a motorcycle or motorized scooter with an engine displacement of less than 231 cubic centimeters shall be issued a motorcycle license or endorsement restricting the person's operation of the vehicles to any motorcycle with an engine displacement of 500 cubic centimeters or less. A person who successfully completes a road test for a motorcycle license or motorcycle endorsement when operating a motorcycle with an engine displacement of 231 or more cubic centimeters shall be issued a motorcycle license or endorsement without any restriction as to engine displacement. Any person who successfully completes an approved motorcycle safety education course established pursuant to the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a motorcycle license or endorsement without restriction as to engine displacement.

f. A person issued a motorcycle license pursuant to this section may be issued a standard motorcycle license or a REAL ID motorcycle license. The chief administrator shall require an applicant for a standard motorcycle license to provide as proof of the applicant's identity, age, and residence primary and secondary documents, with which the chief administrator shall attribute point values in accordance with the point based identification verification program established pursuant to section 28 of P.L.2003, c.13 (C.39:2A-28). The point total required to prove the identity of an applicant for the standard motorcycle license shall be the same for every applicant, regardless of immigration status. In the event that the commission changes the point total threshold, the requirement that every applicant reach the same point total threshold shall remain in effect.

In addition to requiring the person to submit satisfactory proof of identity and age, the commission shall require the person to provide:

(1) as a condition for obtaining a standard motorcycle license, proof of the person's social security number and one document providing satisfactory proof that the person is a New Jersey resident.

If the person does not have a social security number, the person shall either:

(a) provide satisfactory proof of an Individual Taxpayer Identification Number; or

(b) indicate, in a manner prescribed by the commission and consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o et al.), that the person is not eligible to receive a social security number; or

(2) as a condition for obtaining a REAL ID motorcycle license: two documents providing satisfactory proof that the person is a New Jersey resident; proof of the person's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder; and proof that the person's presence in the United States is authorized under federal law.

A standard motorcycle license shall indicate that the license shall not be accepted as identification for an official purpose, as that term is defined under the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder.

g. The commission shall issue a standard basic driver's license or a REAL ID basic driver's license to operate a motor vehicle other than a motorcycle to a person over 18 years of age who previously has not been licensed to drive a motor vehicle in this State or another jurisdiction only if that person has: (1) operated a passenger automobile in compliance with the requirements of this Title for not less than one year, not including any period of suspension or postponement, from the date of issuance of a probationary license pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two motor vehicle points; (3) not been convicted in the previous year for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 1 of P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, section 1 of P.L.2017, c.165 (C.2C:11-5.3), subsection c. of N.J.S.2C:12-1, or any other motor vehicle-related violation the commission determines to be significant and applicable pursuant to regulation; and (4) passed an examination of the applicant's ability to operate a motor vehicle pursuant to this section.

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

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, including the importance of operating a motor vehicle in a manner that safely shares the roadway with pedestrians, cyclists, skaters, riders of motorized-scooters, and other non-motorized vehicles, which shall include, but not be limited to, passing a cyclist on the roadway, recognizing bicycle

lanes, navigating intersections with pedestrians and cyclists, and exiting a vehicle without endangering pedestrians and cyclists, and the dangers of driving a vehicle in an aggressive manner, which shall include, but not be limited to, unexpectedly altering the speed of a vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, and following another vehicle too closely, after consultation with the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety.

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to section 1 of P.L.1978, c.181 (C.39:3-12.2).

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the dangers of failing to comply with this State's motor vehicle traffic laws and the "STOP for Nikhil Safety Pledge" set forth in subsection e. of R.S.39:3-41.

The commission shall expand the driver's license examination to include questions concerning the dangers of carbon monoxide poisoning from motor vehicles and techniques for the safe operation and proper maintenance of a motor vehicle.

i. Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the commission any current driver's license issued to the applicant by another state or jurisdiction upon the applicant's receipt of a driver's license for this State. The commission shall refuse to issue a driver's license if the applicant fails to comply with this provision. An applicant for a permit or license who is under 18 years of age, and who holds a permit or license for a passenger automobile issued by another state or country that is valid or has expired within a time period designated by the commission, shall be subject to the permit and license requirements and penalties applicable to State permit and license applicants who are of the same age; except that if the other state or country has permit or license standards substantially similar to those of this State, the credentials of the other state or country shall be acceptable.

j. (1) The commission shall create classified licensing of drivers covering the following classifications:

(a) Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering or any vehicle defined as

a motorcycle pursuant to R.S.39:1-1 having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed of no more than 35 miles per hour on a flat surface.

(b) Omnibuses as classified by R.S.39:3-10.1 and school buses classified under N.J.S.18A:39-1 et seq.

(c) (Deleted by amendment, P.L.1999, c.28)

(d) All motor vehicles not included in classifications (a) and (b). A license issued pursuant to this classification d. shall be referred to as the "basic driver's license" and may be issued as a standard basic driver's license or a REAL ID basic driver's license.

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

(3) A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the person's basic driver's license. The holder of a basic driver's license or a separately issued motorcycle license shall be authorized to operate a motorcycle having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed no more than 35 miles per hour on a flat surface.

k. The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize the person to drive any registered vehicle, of the kind or kinds indicated.

l. The license shall expire, except as otherwise provided, during the fourth calendar year following the date in which the license was issued and on the same calendar day as the person's date of birth. If the person's date of birth does not correspond to a calendar day of the fourth calendar year, the license shall expire on the last day of the person's birth month.

The commission may, at its discretion and for good cause shown, issue licenses that expire on a date fixed by it. If the commission issues a REAL ID basic driver's license or REAL ID motorcycle license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States under federal immigration laws. The commission may renew the person's REAL ID basic driver's license or REAL ID motorcycle license only if it is demonstrated that

the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

m. The required fee for a license for the license period shall be as follows, subject to adjustment pursuant to section 16 of P.L.2007, c.335 (C.39:2A-36.1):

Standard motorcycle license or endorsement: $18.
REAL ID motorcycle license: $29.
Omnibus or school bus endorsement: $18.
Standard basic driver's license: $18.
REAL ID basic driver's license: $29.

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

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

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

p. The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted a permit or license, but a defect of the applicant shall not debar the applicant from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates the applicant from safely operating a motor vehicle.

q. A person issued a basic driver's license pursuant to this section may be issued a standard basic driver's license or a REAL ID basic driver's license. The chief administrator shall require an applicant for a standard basic driver's license to provide as proof of the applicant's identity, age, and residence primary and secondary documents, with which the chief administrator shall attribute point values in accordance with the point based identification verification program established pursuant to section 28 of P.L.2003, c.13 (C.39:2A-28). The point total required to prove the identity of an applicant for the standard basic driver's license shall be the same for every applicant, regardless of immigration status. In the event that the

commission changes the point total threshold, the requirement that every applicant reach the same point total threshold shall remain in effect.

r. In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide:

(1) as a condition for obtaining a permit and standard basic driver's license, proof of the person's social security number and one document providing satisfactory proof that the applicant is a New Jersey resident. If the person does not have a social security number, the person shall either:

(a) provide satisfactory proof of an Individual Taxpayer Identification Number; or

(b) indicate, in a manner prescribed by the commission and consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o et al.), that the person is not eligible to receive a social security number; or

(2) as a condition for obtaining a REAL ID basic driver's license: two documents providing satisfactory proof that the applicant is a New Jersey resident; proof of the applicant's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder; and proof that the applicant's presence in the United States is authorized under federal law.

s. A standard basic driver's license shall indicate that the license shall not be accepted as identification for an official purpose, as that term is defined under the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder.

t. If the commission has reasonable cause to suspect that any document presented by an applicant pursuant to this section is altered, false, or otherwise invalid, the commission shall refuse to grant the permit or license until the time when the document may be verified by the issuing agency to the commission's satisfaction.

u. A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, the applicant shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the commission.

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

w. Any documents and personal information, including an applicant's photograph, obtained by the commission from an applicant for a standard basic driver's license or standard motorcycle license shall be confidential, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission for any purpose related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, or a lawful court order or subpoena; except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law; and except that information under this subsection may be shared in accordance with section 2 of P.L.2021, c.139 (C.39:2-3.9). When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

Possession of a standard basic driver's license or standard motorcycle license issued pursuant to this section shall not be considered evidence of an individual's citizenship or immigration status and shall not be used as a basis for an investigation, arrest, citation, prosecution, or detention.

Information regarding an applicant's Individual Tax Identification Number, social security number, or ineligibility to receive a social security number obtained by the commission for the issuance of a standard motorcycle license or standard basic driver's license pursuant to this section, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission except where: (1) required by section 11 of P.L.1998, c.1 (C.2A:17-56.60); (2) the applicant provides written informed consent to the disclosure; (3) the requesting entity presents a warrant signed by a State or federal judge, a lawful court order, or a subpoena; (4) required by State or federal law, and to the extent that the disclosure may be necessary to permit the State to participate in the National Driver Register program, as set forth in 49 U.S.C. s.30301 et seq.; (5) the disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification card fraud; or (6) consistent with section 2 of P.L.2021, c.139 (C.39:2-3.9).

x. As used in this section:

"Parking sensors" means proximity sensors which use either electromagnetic or ultrasonic technology and are designed to alert the driver to obstacles while parking.

"Rear visibility system" means devices or components installed on a motor vehicle at the time of manufacture that allow a forward facing driver to view a visual image of the area directly behind the vehicle.

5. R.S.39:3-13 is amended to read as follows:

Examination permits.

39:3-13. a. The chief administrator may, in the chief administrator's discretion, issue to a person over 17 years of age an examination permit, under the hand and seal of the chief administrator, allowing such person, for the purpose of fitting the person to become a licensed driver, to operate a designated class of motor vehicles other than passenger automobiles and motorcycles for a specified period of not more than 90 days, while in the company and under the supervision of a driver licensed to operate such designated class of motor vehicles.

b. The chief administrator, in the chief administrator's discretion, may issue for a specified period of not less than one year a passenger automobile or motorcycle-only examination permit to a person over 17 years of age regardless of whether a person has completed a course of behind-the-wheel automobile driving education pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). An examination permit applicant who is under 18 years of age shall obtain the signature of a parent or guardian for submission to the commission on a form prescribed by the chief administrator. The chief administrator shall postpone for six months the driving privileges of any person who submits a fraudulent signature for a parent or guardian.

c. For six months immediately following the validation of an examination permit, and until the holder passes the road test, the holder who is less than 21 years of age shall operate the passenger automobile only when accompanied by, and under the supervision of, a New Jersey licensed driver who is at least 21 years of age and has been licensed to drive a passenger automobile for not less than three years. The holder of an examination permit who is at least 21 years of age shall operate the passenger automobile for the first three months under such supervision and until the holder passes the road test. The supervising driver of the passenger automobile shall sit in the front seat of the vehicle. Whenever operating a vehicle while in possession of an examination permit, the holder of the permit shall operate the passenger automobile with only one additional passenger in the vehicle excluding

dependents of the permit holder, except that this passenger restriction shall not apply when the permit holder is at least 21 years of age or when the permit holder is accompanied by a parent or guardian. Further, the holder of the passenger automobile permit who is less than 21 years of age shall not drive during the hours between 11:01 p.m. and 5 a.m.; provided, however, that this condition may be waived for an emergency which, in the judgment of local police, is of sufficient severity and magnitude to substantially endanger the health, safety, welfare, or property of a person, or for any bona fide employment or religion-related activity if the employer or appropriate religious authority provides written verification of such activity in a manner provided for by the chief administrator. The holder of the examination permit shall not use any hand-held or hands-free interactive wireless communication device, except in an emergency, while operating a moving passenger automobile on a public road or highway. "Use" shall include, but not be limited to, talking or listening on any hand-held or hands-free interactive wireless communication device or operating its keys, buttons, or other controls. The passenger automobile permit holder shall ensure that all occupants of the vehicle are secured in a properly adjusted and fastened seat belt or child restraint system.

d. The holder of an examination permit subject to the provisions of section 1 of P.L.1977, c.23 (C.39:3-10b) shall not operate a motorcycle at any time from a half-hour after sunset to a half-hour before sunrise. A motorcycle operated by the holder of an examination permit shall carry only the operator and shall not be operated on any toll road over which the New Jersey Turnpike Authority or the South Jersey Transportation Authority has jurisdiction or on any limited-access interstate highway.

e. The holder of any examination permit shall not operate a motorcycle having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed of no more than 35 miles per hour on a flat surface at anytime from a half-hour after sunset to a half-hour before sunrise and shall not operate the motorcycle with any other passenger. The holder of any examination permit shall not operate such a motorcycle upon limited-access interstate highways or public roads or highways with a posted speed limit greater than 35 miles per hour.

f. An applicant for an examination permit subject to the provisions of section 1 of P.L.1977, c.23 (C.39:3-10b), who is less than 18 years of age, shall be required to successfully complete a motorcycle safety education course established pursuant to the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) as a condition for obtaining a motorcycle license or endorsement.

g. The chief administrator shall provide the holder of an examination permit with two removable, transferable, highly visible, reflective decals indicating that the driver of the vehicle may be the holder of an examination permit. The decals shall be designed by the chief administrator, in consultation with the Division of Highway Traffic Safety in the Department of Law and Public Safety. The chief administrator may charge a fee for the decals not to exceed the actual cost of producing and distributing the decals. The decals shall be displayed in a manner prescribed by the chief administrator, in consultation with the Division of Highway Traffic Safety in the Department of Law and Public Safety, and shall be clearly visible to law enforcement officers. The holder of an examination permit shall not operate a vehicle unless the decals are displayed. The decal shall be removed once the driver's examination permit period has ended.

h. When notified by a court of competent jurisdiction that an examination permit holder has been convicted of a violation which causes the permit holder to accumulate more than two motor vehicle points or has been convicted of a violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-50.4a); section 1 of P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L.2017, c.165 (C.2C:11-5.3); subsection c. of N.J.S.2C:12-1; or any other motor vehicle-related law the chief administrator deems significant and applicable pursuant to regulation, in addition to any other penalty that may be imposed, the chief administrator shall, without the exercise of discretion or a hearing, suspend the examination permit holder's examination permit for 90 days. The chief administrator shall restore the permit following the term of the permit suspension if the permit holder satisfactorily completes a remedial training course of not less than four hours which may be given by the commission, a driving school licensed by the chief administrator pursuant to section 2 of P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization approved by the chief administrator. The course shall be subject to oversight by the commission according to its guidelines. The permit holder shall also remit a course fee prior to the commencement of the course. The chief administrator also shall postpone without the exercise of discretion or a hearing the issuance of a basic license for 90 days if the chief administrator is notified by a court of competent jurisdiction that the examination permit holder, after completion of the remedial training course, has been convicted of any motor vehicle violation which results in the imposition of any motor vehicle points or has been convicted of a violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-50.4a); section 1 of P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of N.J.S.2C:12-1; or any other motor vehicle-related law the chief administrator deems significant and applicable pursuant to regulation. When the

chief administrator is notified by a court of competent jurisdiction that an examination permit holder has been convicted of any alcohol or drug-related offense unrelated to the operation of a motor vehicle and is not otherwise subject to any other suspension penalty therefor, the chief administrator shall, without the exercise of discretion or a hearing, suspend the examination permit for six months.

i. An examination permit for a motorcycle or a commercial motor vehicle issued to a person with a disability, as determined by the New Jersey Motor Vehicle Commission after consultation with the Department of Education, shall be valid for nine months or until the completion of the road test portion of the license examination, whichever period is shorter.

j. Each permit shall be sufficient license for the person to operate such designated class of motor vehicles in this State during the period specified, while in the company of and under the control of a driver licensed by this State to operate such designated class of motor vehicles, or, in the case of a commercial driver license permit, while in the company of and under the control of a holder of a valid commercial driver license for the appropriate license class and with the appropriate endorsements issued by this or any other state. Such person, as well as the licensed driver, except for a motor vehicle examiner administering a driving skills test, shall be held accountable for all violations of this subtitle committed by such person while in the presence of the licensed driver.

k. In addition to requiring an applicant for an examination permit to submit satisfactory proof of identity and age in accordance with the type of license for which the applicant has applied, the chief administrator also shall require the applicant to provide the requisite number of documents providing satisfactory proof that the applicant is a resident of the State in accordance with the provisions of R.S.39:3-10.

l. Any documents and personal information, including an applicant's photograph, obtained by the commission from an applicant for a standard permit shall be confidential, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission for any purposes related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, or a lawful court order or subpoena; except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law; and except that information under this subsection may be shared in accordance with section 2 of P.L.2021, c.139 (C.39:2-3.9).

When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

Possession of a standard permit issued pursuant to this section shall not be considered evidence of an individual's citizenship or immigration status and shall not be used as a basis for an investigation, arrest, citation, prosecution, or detention.

Information regarding an applicant's Individual Tax Identification Number, social security number, or ineligibility to receive a social security number obtained by the commission for the issuance of a standard permit pursuant to this section, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission except where: (1) required by section 11 of P.L.1998, c.1 (C.2A:17-56.60); (2) the applicant provides written informed consent to the disclosure; (3) the requesting entity presents a warrant signed by a State or federal judge, a lawful court order, or a subpoena; (4) required by State or federal law, and to the extent that the disclosure may be necessary to permit the State to participate in the National Driver Register program, as set forth in 49 U.S.C. s.30301 et seq.; (5) the disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification card fraud; or (6) consistent with section 2 of P.L.2021, c.139 (C.39:2-3.9).

m. If the chief administrator has reasonable cause to suspect that any document presented by an applicant pursuant to this section is altered, false, or otherwise invalid, the chief administrator shall refuse to grant the permit until such time as the document may be verified by the issuing agency to the chief administrator's satisfaction.

n. A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, the applicant shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days.

o. The holder of an examination permit shall be required to take a road test in order to obtain a probationary license. No road test for any person who has been issued an examination permit to operate a passenger vehicle shall be given unless the person has met the requirements of this section. No road test for a probationary license shall be given unless the applicant has first secured an examination permit and no such road test shall be scheduled for

an applicant who has secured an examination permit for a passenger vehicle or a motorcycle for which an endorsement is not required until at least six months for an applicant under 21 years of age or three months for an applicant 21 years of age or older shall have elapsed following the validation of the examination permit for practice driving or, in the case of an examination permit for other vehicles, until 20 days have elapsed. In the case of an omnibus endorsement or school bus, no road test shall be scheduled until at least 10 days shall have elapsed. Every applicant for an examination permit to qualify for an omnibus endorsement or an articulated vehicle endorsement shall be a holder of a valid basic driver's license.

p. The required fees for special learner's permits and examination permits shall be as follows:

Basic driver's license.....up to $10
Motorcycle license or endorsement.....$5
Omnibus or school bus endorsement.....$25

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

r. The specified period for which a permit is issued may be extended for not more than an additional 60 days, without payment of an added fee, upon application made by the holder thereof, where the holder has applied to take the examination for a driver's license prior to the expiration of the original period for which the permit was issued and the chief administrator was unable to schedule an examination during said period.

s. As a condition for the issuance of an examination permit under this section, the chief administrator shall secure a digitized photograph of the applicant. The photograph shall be stored in a manner prescribed by the chief administrator and may be displayed on the examination permit.

The chief administrator may require that whenever a person to whom an examination permit has been issued has reconstructive or cosmetic surgery which significantly alters the person's facial features, the person shall notify the chief administrator who may require the photograph of the person to be updated.

t. Specific use of the examination permit and any information stored or encoded, electronically or otherwise, in relation thereto shall be in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.), section 2 of P.L.2021, c.139 (C.39:2-3.9), and the federal "Driver's Privacy Protection Act of 1994," Pub.L.103-322. Notwithstanding the provisions of any other law to the

contrary, the digitized photograph or any access thereto or any use thereof shall not be sold, leased, or exchanged for value.

6. Section 1 of P.L.1950, c.127 (C.39:3-13.1) is amended to read as follows:

C.39:3-13.1 Issuance of special learner's permit.

1. a. The Chief Administrator of the New Jersey Motor Vehicle Commission may issue to a person over 16 years of age a special learner's permit, under the hand and seal of the chief administrator, allowing such person, for the purpose of preparing to qualify for a probationary license for a passenger automobile by operating a dual pedal controlled motor vehicle while taking a required course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State or a course of behind-the-wheel automobile driving instruction conducted by a drivers' school duly licensed pursuant to the provisions of P.L.1951, c.216 (C.39:12-1 et seq.). The special learner's permit shall be issued in lieu of the examination permit provided for in R.S.39:3-13.

b. In addition to requiring an applicant for a permit to submit satisfactory proof of identity and age in accordance with the type of license for which the applicant has applied, the chief administrator also shall require the applicant to provide the requisite number of documents providing satisfactory proof that the applicant is a resident of the State.

Any documents and personal information, including an applicant's photograph, obtained by the commission from an applicant for a standard permit shall be confidential, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission for any purpose related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, or a lawful court order or subpoena; except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law; and except that information under this subsection may be shared in accordance with section 2 of P.L.2021, c.139 (C.39:2-3.9). When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

Possession of a standard permit issued pursuant to this section shall not be considered evidence of an individual's citizenship or immigration status and shall not be used as a basis for an investigation, arrest, citation, prosecution, or detention.

Information regarding an applicant's Individual Tax Identification Number, social security number, or ineligibility to receive a social security number obtained by the commission for the issuance of a standard permit pursuant to this section, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission except where: (1) required by section 11 of P.L.1998, c.1 (C.2A:17-56.60); (2) the applicant provides written informed consent to the disclosure; (3) the requesting entity presents a warrant signed by a State or federal judge, a lawful court order, or a subpoena; (4) required by State or federal law, and to the extent that the disclosure may be necessary to permit the State to participate in the National Driver Register program, as set forth in 49 U.S.C. s.30301 et seq.; (5) the disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification card fraud; or (6) consistent with section 2 of P.L.2021, c.139 (C.39:2-3.9).

If the chief administrator has reasonable cause to suspect that any document presented by an applicant pursuant to this section is altered, false or otherwise invalid, the chief administrator shall refuse to grant the permit until such time as the document may be verified by the issuing agency to the chief administrator's satisfaction.

A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, the applicant shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days.

c. The special learner's permit described above, when issued to a person taking a course of behind-the-wheel driving education conducted in a public, parochial, or private school, shall be retained in the office of the school principal at all times except during such time as the person to whom the permit is issued is undergoing behind-the-wheel automobile driving instruction. The chief administrator may make such rules and regulations as he may deem necessary to carry out the provisions of this section.

7. Section 4 of P.L.1950, c.127 (C.39:3-13.4) is amended to read as follows:

C.39:3-13.4 Probationary driver's license.

4. a. The holder of a special learner's permit shall be entitled to a probationary driver's license (1) upon attaining the age of 17 years, (2) upon the satisfactory completion of an approved behind-the-wheel driver training course as indicated upon the face of the special permit over the signature of the principal of the school or the person operating the driving school in which the course was conducted, (3) upon the completion of six months' driving experience with a validated special learner's permit in compliance with the provisions of section 6 of P.L.1977, c.25 (C.39:3-13.2a), and (4) upon passing the road test pursuant to R.S.39:3-10.

b. The holder of a probationary license shall be permitted to operate the passenger automobile with only one additional passenger in the vehicle besides any dependent of the probationary license holder, except that this passenger restriction shall not apply when the holder of the probationary license is at least 21 years of age or the probationary license holder is accompanied by a parent or guardian. Further, the holder of the probationary license who is under 21 years of age shall not drive during the hours between 11:01 p.m. and 5 a.m.; provided however, that this condition may be waived for an emergency which, in the judgment of local police, is of sufficient severity and magnitude to substantially endanger the health, safety, welfare, or property of a person or for any bona fide employment or religion-related activity if the employer or appropriate religious authority provides written verification of such activity in a manner provided for by the chief administrator.

c. The holder of the probationary license shall not use any hand-held or hands-free interactive wireless communication device, except in an emergency, while operating a moving passenger automobile on a public road or highway. "Use" shall include, but not be limited to, talking or listening on any hand-held or hands-free interactive wireless communication device or operating its keys, buttons, or other controls. In addition, the holder of the probationary license shall ensure that all occupants of the vehicle are secured in a properly adjusted and fastened seat belt or child restraint system.

d. In addition to any other penalties provided under law, the holder of a probationary license who accumulates more than two motor vehicle points or is convicted of a violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-50.4a); section 1 of P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L.2017, c.165 (C.2C:11-5.3); subsection c. of N.J.S.2C:12-1; or any other motor vehicle law the chief administrator deems

to be significant and applicable pursuant to regulation shall, for the first violation, be required to satisfactorily complete a remedial training course of not less than four hours which may be given by the commission, a driving school licensed by the chief administrator pursuant to section 2 of P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization approved by the chief administrator. The course shall be administered pursuant to rules and regulations promulgated by the chief administrator and subject to oversight by the commission. The authority of the chief administrator to suspend, revoke, or deny issuance of an initial or renewal license to operate a driving school or an instructor's license, and to assess fines, pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations related to the administration of a remedial training course. The license holder shall also remit a course fee prior to the commencement of the course.

e. When notified by a court of competent jurisdiction that a probationary license holder has been convicted of a second or subsequent violation, in addition to any other penalties provided under law, the chief administrator shall, without the exercise of discretion or a hearing, suspend the probationary license for three months, and shall postpone eligibility for a basic license for an equivalent period. In addition, when the chief administrator is notified by a court of competent jurisdiction that a probationary license holder has been convicted of any alcohol or drug-related offense unrelated to the operation of a motor vehicle, and he is not otherwise subject to any other suspension penalty therefor, the chief administrator shall, without the exercise of discretion or a hearing, suspend the probationary license for six months.

f. The chief administrator shall provide the holder of a probationary license with two removable, transferable, highly visible, reflective decals indicating that the driver of the vehicle may be the holder of a probationary license. The decals shall be designed by the chief administrator, in consultation with the Division of Highway Traffic Safety in the Department of Law and Public Safety. The chief administrator may charge a fee for the decals not to exceed the actual cost of producing and distributing the decals. The decals shall be displayed in a manner prescribed by the chief administrator, in consultation with the Division of Highway Traffic Safety in the Department of Law and Public Safety, and shall be clearly visible to law enforcement officers. The holder of a probationary license shall not operate a vehicle unless the decals are displayed. The decal shall be removed once the driver's probationary license period has ended.

g. A probationary license may be sent by mail and shall be clearly identifiable and distinguishable in appearance from a basic license by any name, mark, color, or device deemed appropriate by the chief administrator.

h. A person issued a probationary license pursuant to this section may be issued a standard probationary license or a REAL ID probationary license. The chief administrator shall require an applicant for a standard probationary license to provide as proof of the applicant's identity, age, and residence primary and secondary documents, with which the chief administrator shall attribute point values in accordance with the point based identification verification program established pursuant to section 28 of P.L.2003, c.13 (C.39:2A-28). The point total required to prove the identity of an applicant for the standard probationary license shall be the same for every applicant, regardless of immigration status. In the event that the commission changes the point total threshold, the requirement that every applicant reach the same point total threshold shall remain in effect.

In addition to requiring an applicant for a probationary license to submit satisfactory proof of identity and age, the chief administrator shall require the applicant to provide:

(1) as a condition for obtaining a standard probationary license, proof of the applicant's social security number and one document providing satisfactory proof that the applicant is a New Jersey resident. If the applicant does not have a social security number, the applicant shall either:

(a) provide satisfactory proof of an Individual Taxpayer Identification Number; or

(b) indicate, in a manner prescribed by the commission and consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o et al.), that the person is not eligible to receive a social security number; or

(2) as a condition for obtaining a REAL ID probationary license: two documents providing satisfactory proof that the applicant is a New Jersey resident; proof of the applicant's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder; and proof that the applicant's presence in the United States is authorized under federal law.

A standard probationary license shall indicate that the license shall not be accepted as identification for an official purpose, as that term is defined under the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder.

If the chief administrator has reasonable cause to suspect that any document presented by an applicant pursuant to this section is altered, false,

or otherwise invalid, the chief administrator shall refuse to grant the probationary license until such time as the document may be verified by the issuing agency to the chief administrator's satisfaction.

A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, the applicant shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days.

i. Any documents and personal information, including an applicant's photograph, obtained by the commission from an applicant for a standard probationary license shall be confidential, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission for any purpose related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, or a lawful court order or subpoena; except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law; and except that information under this subsection may be shared in accordance with section 2 of P.L.2021, c.139 (C.39:2-3.9). When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

Possession of a standard probationary license issued pursuant to this section shall not be considered evidence of an individual's citizenship or immigration status and shall not be used as a basis for an investigation, arrest, citation, prosecution, or detention.

Information regarding an applicant's Individual Tax Identification Number, social security number, or ineligibility to receive a social security number obtained by the commission for the issuance of a standard probationary license pursuant to this section, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission except where: (1) required by section 11 of P.L.1998, c.1 (C.2A:17-56.60); (2) the applicant provides written informed consent to the disclosure; (3) the requesting entity presents a warrant signed by a State or federal judge, a lawful court order, or a subpoena; (4) required by State or federal law, and to the extent that the disclosure may be necessary to permit

the State to participate in the National Driver Register program, as set forth in 49 U.S.C. s.30301 et seq.; (5) the disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification card fraud; or (6) consistent with section 2 of P.L.2021, c.139 (C.39:2-3.9).

8. Section 2 of P.L.1980, c.47 (C.39:3-29.3) is amended to read as follows:

C.39:3-29.3 Identification cards.

2. a. (1) The New Jersey Motor Vehicle Commission shall issue an identification card to any resident of the State who is 14 years of age or older and who is not the holder of a valid permit or basic driver's license. The identification card shall attest to the true name, correct age, and veteran status, upon submission of satisfactory proof, by any veteran, and shall contain other identifying data as certified by the applicant for such identification card. Every application for an identification card shall be signed and verified by the applicant and shall be accompanied by the written consent of at least one parent or the person's legal guardian if the person is under 17 years of age and shall be supported by such documentary evidence of the age, identity, and veteran status, or blindness, or disability of such person as the chief administrator may require.

A person issued an identification card pursuant to this section may be issued a standard identification card or a REAL ID identification card. The chief administrator shall require any applicant for a standard identification card to provide as proof of the applicant's identity, age, and residence primary and secondary documents, with which the chief administrator shall attribute point values in accordance with the point based identification verification program established pursuant to section 28 of P.L.2003, c.13 (C.39:2A-28). The point total required to prove the identity of an applicant for the standard probationary license shall be the same for every applicant, regardless of immigration status. In the event that the commission changes the point total threshold, the requirement that every applicant reach the same point total threshold shall remain in effect.

In addition to requiring an applicant for an identification card to submit satisfactory proof of identity, age, and, if appropriate, veteran status, the chief administrator also shall require the applicant to provide:

(a) as a condition for obtaining a standard identification card, proof of the applicant's social security number and one document providing satisfactory proof that the applicant is a New Jersey resident. If the applicant does not have a social security number, the applicant shall either:

(i) provide satisfactory proof of an Individual Taxpayer Identification Number; or

(ii) indicate, in a manner prescribed by the commission and consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o et al.), that the applicant is not eligible to receive a social security number; or

(b) as a condition for obtaining a REAL ID identification card: two documents providing satisfactory proof that the applicant is a New Jersey resident; proof of the applicant's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder; and proof that the applicant's presence in the United States is authorized under federal law.

Any documents and personal information, including an applicant's photograph, obtained by the commission from an applicant for a standard identification card shall be confidential, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission for any purposes related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, or a lawful court order or subpoena; except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law; and except that information under this subsection may be shared in accordance with section 2 of P.L.2021, c.139 (C.39:2-3.9). When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

Possession of a standard identification card issued pursuant to this section shall not be considered evidence of an individual's citizenship or immigration status and shall not be used as a basis for an investigation, arrest, citation, prosecution, or detention.

Information regarding an applicant's Individual Tax Identification Number, social security number, or ineligibility to receive a social security number obtained by the commission for the issuance of a standard identification card pursuant to this section, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission except where: (1) required by section 11 of P.L.1998, c.1 (C.2A:17-56.60); (2) the applicant provides written informed consent to the disclosure; (3) the requesting entity

presents a warrant signed by a State or federal judge, a lawful court order, or a subpoena; (4) required by State or federal law, and to the extent that the disclosure may be necessary to permit the State to participate in the National Driver Register program, as set forth in 49 U.S.C. s.30301 et seq.; (5) the disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification card fraud; or (6) consistent with section 2 of P.L.2021, c.139 (C.39:2-3.9).

If the chief administrator has reasonable cause to suspect that any document presented by an applicant pursuant to this section is altered, false or otherwise invalid, the chief administrator shall refuse to grant the identification card until such time as the document may be verified by the issuing agency to the chief administrator's satisfaction.

A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days.

(2) In addition to the requirements for the form and content of an identification card pursuant to this section, the Chief Administrator of the New Jersey Motor Vehicle Commission shall, upon submission of satisfactory proof, designate on an identification card that the card holder is a Gold Star Family member. The commission shall provide to the Department of Military and Veterans' Affairs personal identifying information for any person issued an identification card with a Gold Star Family designation pursuant to this section.

b. The designation of veteran status on an identification card shall not be deemed sufficient valid proof of veteran status for official governmental purposes when any other statute, or any regulation or other directive of a governmental entity, requires documentation of veteran status.

c. For the purpose of this section:

"Gold Star Family member" means a spouse, domestic partner, partner in a civil union, parent, brother, sister, child, legal guardian, or other legal custodian, whether of the whole or half blood or by adoption, of a member of the Armed Forces of the United States or National Guard, who lost his or her life while on active duty for the United States.

"REAL ID identification card" shall have the same meaning as provided in R.S.39:1-1.

"Veteran" means any resident of the State now or hereafter who has been discharged honorably or under general honorable conditions in any branch of the Armed Forces of the United States, or a Reserve component thereof, or the National Guard of this State or another state as defined in section 1 of P.L.1963, c.109 (C.38A:1-1); and

"Satisfactory proof" means, in the case of a veteran, the applicant's DD-214, DD-215, or DD-256 form as issued by the federal government, or NGB-22 or other approved separation forms as outlined by all branches of the Armed Forces, or federal activation orders showing service under Title 10, section 672 or section 12301, of the United States Code, or a county-issued veteran identification card pursuant to P.L.2012, c.30 (C.40A:9-78.1 et seq.), or a veteran identification card as issued by the United States Department of Veterans Affairs under the "Veterans Identification Card Act of 2015," (38 U.S.C. s.5706). In the case of a Gold Star Family member, satisfactory proof includes any or all of the following:

(1) a certification from the Department of New Jersey of American Gold Star Mothers, Inc., or any other organization formed for the support of family members of members of the Armed Forces of the United States or National Guard, who lost their lives while on active duty for the United States, that the applicant is either the spouse, domestic partner, partner in a civil union, parent, brother, sister, child, legal guardian, or other legal custodian, whether of the whole or half blood or by adoption, of a member of the armed forces or National Guard who died while on active duty for the United States; or

(2) (a) documentation deemed acceptable by the Adjutant General, including, but not limited to, a federal DD Form 1300, Report of Casualty, or a federal DD Form 2064, Certificate of Death Overseas, which identifies the member of the Armed Forces of the United States or National Guard who died while on active duty for the United States; and

(b) documentation indicating the applicant's relationship to the service member.

9. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 140

AN ACT concerning enrollment of workers' compensation judges in the Public Employees' Retirement System and amending various parts of the statutory law.

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

1. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read as follows:

C.43:15C-2 Eligibility for participation in the Defined Contribution Retirement Program.

2. a. The following persons shall be eligible and shall participate in the Defined Contribution Retirement Program:

(1) A person who commences service on or after the effective date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an elective public office of this State or of a political subdivision thereof, except that it shall not include a person who holds elective public office on the effective date of this section and is enrolled in the Public Employees' Retirement System while that person continues to hold that elective public office or, for an elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office, without a break in service. Service in the Legislature shall be considered a single elective public office.

(2) A person who commences service on or after the effective date of this section in an employment, office or position of the State or of a political subdivision thereof, or an agency, board, commission, authority or instrumentality of the State or of a subdivision, pursuant to an appointment by the Governor that requires the advice and consent of the Senate, or pursuant to an appointment by the Governor to serve at the pleasure of the Governor only during his or her term of office. This paragraph shall not be deemed to include a person otherwise eligible for membership in the State Police Retirement System or the Judicial Retirement System. This paragraph shall not include Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development.

(3) A person who commences service on or after the effective date of this section in an employment, office or position in a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a subdivision, pursuant to an appointment by an elected public official or elected governing body, that requires the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs or the Department of Education, as appropriate to the elected governing body. This paragraph shall not be deemed to include a person otherwise eligible for membership in the Teachers' Pension and Annuity Fund or the Police and Firemen's Retirement

System, or a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency, board, commission, authority or instrumentality of a subdivision, or a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

(4) A person who is granted a pension or retirement allowance under any pension fund or retirement system established under the laws of this State and elects to participate pursuant to section 1 of P.L.1977, c.171 (C.43:3C-3) upon being elected to public office.

(5) A member of the Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, or the Public Employees' Retirement System for whom compensation is defined as the amount of base or contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for contribution and benefit purposes of those retirement systems, for whom participation in this retirement program shall be with regard to any excess over the maximum compensation only.

(6) A person in employment, office or position for which the annual salary or remuneration is less, or the hours of work per week are fewer, than that which is required to become a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System, or to make contributions to those systems as a member on the basis of any such employment, office or position, after November 1, 2008.

b. No person shall be eligible to participate in the retirement program with respect to any public employment, office, or position if:

(1) the base salary for that employment, office, or position is less than $5,000 per year;

(2) the person is, on the basis of service in that employment, office, or position, eligible for membership or enrolled as a member of another State or locally-administered pension fund or retirement system established under the laws of this State including the Alternate Benefit Program, except as otherwise specifically provided in subsection a. of this section;

(3) the person is receiving a benefit as a retiree from any other State or locally-administered pension fund or retirement system established under the laws of this State, except as provided in section 1 of P.L.1977, c.171 (C.43:3C-3); or

(4) the person is an officer or employee of a political subdivision of this State or of a board of education, or of any agency, authority or instrumentality thereof, who is ineligible for membership in the Public Employees' Retirement System pursuant to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

c. A person eligible and required to participate in the retirement program pursuant to paragraph (5) of subsection a. of this section may elect to waive participation with regard to that employment, office, or position by filing, when first eligible, on a form required by the division, a written waiver with the Division of Pensions and Benefits that waives all rights and benefits that would otherwise be provided by the retirement program. Such a person may thereafter elect to participate in the retirement program by filing, on a form required by the division, a written election to participate in the retirement program and participation in the retirement program pursuant to such election shall commence on the January 1 next following the filing of the election to participate.

d. Service credited to a participant in the Defined Contribution Retirement Program shall not be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or any other law, rule or regulation.

2. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read as follows:

C.43:15A-7 Public Employees' Retirement System, established; membership.

7. There is hereby established the Public Employees' Retirement System of New Jersey in the Division of Pensions and Benefits of the Department of the Treasury. The membership of the retirement system shall include:

a. The members of the former "State Employees' Retirement System of New Jersey" enrolled as such as of December 30, 1954, who shall not have claimed for refund their accumulated deductions in said system as provided in this section;

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service. The membership of the retirement system shall not include those persons appointed to serve as described in paragraphs (2) and (3) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a person who was a member

of the retirement system prior to the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) and continuously thereafter. The membership of the retirement system shall include Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development; and

c. Every employee veteran in the employ of the State or other employer on January 2, 1955, who is not a member of any retirement system supported wholly or partly by the State.

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Elected officials commencing service on or after the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not be eligible for membership in the retirement system based on service in the elective public office, except that an elected official enrolled in the retirement system as of that effective date who continues to hold that elective public office or, for an elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office, without a break in service shall be eligible to continue membership in the retirement system under the terms and conditions of enrollment. Service in the Legislature shall be considered a single elective public office. Any part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be eligible for membership in this retirement system. Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age.

(1) Before or on November 1, 2008, no person in employment, office or position, for which the annual salary or remuneration is fixed at less than $1,500.00, shall be eligible to become a member of the retirement system.

(2) After November 1, 2008, a person who was a member of the retirement system on that date and continuously thereafter shall be eligible to be a member of the retirement system in employment, office or position, for which the annual salary or remuneration is fixed at $1,500 or more.

(3) After November 1, 2008 and before or on the effective date of P.L.2010, c.1, a person who was not a member of the retirement system on November 1, 2008, or who was a member of the retirement system on that date but not continuously thereafter, and who is in employment, office or position, for which the annual salary or remuneration is certified by the applicable public entity at $7,500 or more, shall be eligible to become a member of the retirement system. The $7,500 minimum annual salary or remuneration amount shall be adjusted annually by the Director of the Division of Pensions and Benefits, by regulation, in accordance with changes in the Consumer Price Index but by no more than 4 percent. "Consumer Price Index" means the average of the annual increase, expressed as a percentage, in the consumer price index for all urban consumers in the New York City and Philadelphia metropolitan statistical areas during the preceding calendar year as reported by the United States Department of Labor.

(4) After the effective date of P.L.2010, c.1, no person in an employment, office or position of the State, or an agency, board, commission, authority or instrumentality of the State, for which the hours of work are fixed at fewer than 35 per week shall be eligible to become a member of the retirement system; and no person in employment, office or position with a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a political subdivision of the State, for which the hours of work are fixed by an ordinance or resolution of the political subdivision, or agency, board, commission, authority or instrumentality thereof, at fewer than 32 per week shall be eligible to become a member of the retirement system. Any hour or part thereof, during which the person does not work due to the person's participation in a voluntary or mandatory furlough program shall not be deducted in determining if a person's hours of work are fixed at fewer than 35 or 32 per week, as appropriate, for the purpose of eligibility and the person's service credit as a member of the system or fund shall include the period of mandatory or voluntary furlough provided the person continues to make contributions based on the person's base salary or compensation. If the pay of a furloughed person is insufficient to withhold the entirety of the person's regular contributions, then the person shall remit the entirety of the regular contribution which was not withheld from the person's pay to the Division of Pensions and Benefits in the Department of

the Treasury in a manner determined by the division, except that no deduction for the payment of such contributions shall be made from the unemployment compensation benefits of the employee.

e. Membership of any person in the retirement system shall cease if he shall discontinue his service for more than two consecutive years.

f. The accumulated deductions of the members of the former "State Employees' Retirement System" which have been set aside in a trust fund designated as Fund A as provided in section 5 of this act and which have not been claimed for refund prior to February 1, 1955 shall be transferred from said Fund A to the Annuity Savings Fund of the Retirement System, provided for in section 25 of this act. Each member whose accumulated deductions are so transferred shall receive the same prior service credit, pension credit, and membership credit in the retirement system as he previously had in the former "State Employees' Retirement System" and shall have such accumulated deductions credited to his individual account in the Annuity Savings Fund. Any outstanding obligations of such member shall be continued.

g. Any school crossing guard electing to terminate his membership in the retirement system pursuant to subsection d. of this section shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the position of school crossing guard. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

h. A temporary employee who is employed under the federal Workforce Investment Act shall not be eligible for membership in the system. Membership for temporary employees employed under the federal Job Training Partnership Act, Pub.L.97-300 (29 U.S.C.s.1501) who are in the system on September 19, 1986 shall be terminated, and affected employees shall receive a refund of their accumulated deductions as of the date of commencement of employment in a federal Job Training Partnership Act program. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

i. Membership in the retirement system shall be optional for a special service employee who is employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056). Any special service employee employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on the effective date of P.L.1996, c.139 may terminate membership in the retirement system by making an application in

writing to the board of trustees of the retirement system. Upon receiving the application, the board shall terminate enrollment in the system and the member shall receive a refund of accumulated deductions as of the date of commencement of employment in a federal Older American Community Service Employment Act program. This refund of contributions shall serve as a waiver of all benefits payable to the employee, to any dependent or dependents, or to any beneficiary under the retirement system.

j. An employee of the South Jersey Port Corporation who was employed by the South Jersey Port Corporation as of the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-employed within 365 days of such effective date by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall be eligible to continue membership while an employee of such subsidiary or other corporation.

k. An employee of a renaissance school project established pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon commencement of employment.

3. Section 2 of P.L.2001, c.259 (C.43:15A-143) is amended to read as follows:

C.43:15A-143 Membership in Workers Compensation Judges Part; service dates.

2. a. Notwithstanding the provisions of any other law, workers compensation judges shall be members of the Workers Compensation Judges Part, established pursuant to this act, P.L.2001, c.259 (C.43:15A-142 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.259. Membership in the retirement system shall be a condition of employment for service as a judge of compensation.

b. A Workers' Compensation Judge of the Division of Workers' Compensation in the Department of Labor and Workforce Development who is a participant in the Defined Contribution Retirement Program, established pursuant to P.L.2007, c.92 (C.43:15C-1 et seq.), on the effective date of P.L.2021, c.140 shall be transferred and enrolled in the Workers' Compensation Judges Part of the Public Employees' Retirement System within 90 days following that effective date. The account in the Defined Contribution Retirement Program or the Public Employees' Retirement Program for each judge transferred and enrolled shall be transferred to the

Workers' Compensation Judges Part of the Public Employees' Retirement System and each judge shall be given service credit in the Workers' Compensation Judges Part of the Public Employees' Retirement System for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer and enrollment of such judges shall be paid by transfers from the Second Injury Fund as provided by section 13 of P.L.2001, c.259 (C.43:15A-154) to the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Service credit transferred from a participant in the Defined Contribution Retirement Program under this subsection shall be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), or any other law, rule or regulation.

The actuary for the Public Employees' Retirement System shall determine the unfunded accrued liability resulting from the transfer and coverage of judges under this subsection a. of this section in the same manner provided for the determination of the unfunded accrued liability of the retirement system by section 24 of P.L.1954, c.84 (C.43:15A-24). This unfunded accrued liability shall be amortized in the manner provided by section 24 over an amortization period of 20 years. Accrued liability and normal contributions for workers compensation judges shall be paid by transfers from the Second Injury Fund as provided by subsection j. of R.S.34:15-94. The Commissioner of Labor and Workforce Development may, with the authorization of and appropriation by the Legislature, pay the unfunded accrued liability in a lump sum or over a period of time shorter than 20 years.

c. The value of the account of a workers' compensation judge who is transferred out of the program shall be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the relevant provisions of the federal Internal Revenue Code and Internal Revenue Service guidance as a direct trustee-to-trustee transfer. The transfer shall be in accordance with a rule, method, or process that shall not result in the transfer being deemed a distribution includible in federal gross income for the workers' compensation judge.

d. A workers compensation judge who retired on or after May 20, 2021 and who was not transferred and enrolled pursuant to this subsection shall be retroactively transferred and enrolled in the Workers Compensation Judges Part of the Public Employees' Retirement System pursuant to this section and the retirement allowance calculated and paid from the date of retirement based on that enrollment in Workers Compensation Judges Part of the Public Employees' Retirement System, provided the retiree complies with any terms and conditions

for that transfer, enrollment, and calculation as required by the Division of Pensions and Benefits and the board of trustees of the Public Employees' Retirement System. The retroactive provision in this subsection shall only apply to those workers compensation judges who have not received a distribution from the judge's Defined Contribution Retirement Program account.

4. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 141

AN ACT concerning grade retention during the 2021-2022 school year.

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

1. The Legislature finds and declares that:

a. School closures and the widespread use of virtual or remote instruction caused by the COVID-19 pandemic have presented an extraordinary challenge to students, the parents and guardians of students, and the education community at-large.

b. Although the increased use of virtual or remote instruction has been necessary in order to limit the transmission of COVID-19, research has shown that the use of such instruction may lead to a gap in learning gains that students may have otherwise experienced had they been learning through in-person instruction.

c. In addition to the concerns surrounding gaps in learning, the widespread use of virtual or remote instruction may also impact students' social and emotional well-beings in ways that are difficult for school district staff to detect and address through virtual or remote means.

d. As students continue to learn in virtual or remote environments, parents are placed in a unique position to observe the effects that the COVID-19 pandemic is having on their children's educational progress.

e. In many instances, the parents of students learning virtually or remotely are witnessing first-hand the impacts of the current shift away from in-person instruction as they assist their children in adapting to the complexities of learning during the COVID-19 pandemic.

f. Given the new role that parents have taken on in their children's education during this unprecedented time, it is fitting that parents have an

increased say in certain educational decisions, including decisions concerning grade retention.

2. a. (1) Notwithstanding section 1 of P.L.1985, c.408 (C.18A:35-4.9) or any other law or regulation to the contrary, for the 2021-2022 school year, the parent, guardian, or other person having legal custody of a student enrolled in the grades kindergarten through eight shall be permitted to submit a written request of grade retention for the same grade level in which the student was enrolled during the 2020-2021 school year to the principal of the school in which the student is enrolled or to the lead person of the charter school or renaissance school project in which the student is enrolled, as applicable, by June 30, 2021. A school principal or lead person who receives a written request of grade retention pursuant to this act shall review the request in accordance with the procedures enumerated in subsection b. of this section.

(2) A superintendent of a school district or a lead person of a charter school or renaissance school project may accept a written request of grade retention after June 30, 2021 at the superintendent's or lead person's discretion. A superintendent or lead person who chooses to accept a written request of grade retention pursuant to this act after June 30, 2021 may grant the request upon review of the written request in accordance with the procedures enumerated in subparagraph (b) of paragraph (1) of subsection b. of this section.

b. (1) (a) The parent, guardian, or other person having legal custody of a student who submits a written request of grade retention pursuant to paragraph (1) of subsection a. of this section shall consult with the school counselor, the child study team, or the individualized education program team, as applicable, and the student's teachers to review and evaluate whether grade retention is necessary to meet the academic and social and emotional needs of the student. The results of the consultation conducted pursuant to this subparagraph shall be submitted to the principal of the school in which the student is enrolled or to the lead person of the charter school or renaissance school project in which the student is enrolled, as applicable. As appropriate, a parent, guardian, or other person having legal custody of a student who submits a written request of grade retention may request a conference with the school principal or the lead person of the charter school or renaissance school project in which the student is enrolled, as applicable, to discuss the results of the consultation conducted pursuant to this subparagraph.

(b) In the event that a superintendent of a school district or a lead person of a charter school or renaissance school project determines to accept a written request of grade retention submitted after June 30, 2021 pursuant to paragraph (2) of subsection a. of this section, a consultation shall be

conducted in accordance with the procedures enumerated in subparagraph (a) of this paragraph, except that the results of the consultation shall be submitted to the superintendent or to the lead person, as applicable.

(2) If it is determined that grade retention is necessary to meet the academic and social and emotional needs of the student in accordance with paragraph (1) of this subsection, the school principal, lead person of a charter school or renaissance school project, or superintendent, as applicable, shall grant the written request of grade retention. If there is not a consensus as to whether grade retention is necessary to meet the academic and social and emotional needs of the student, the superintendent of the school district, or the superintendent's designee, or the lead person of the charter school or renaissance school project, as applicable, shall review the results of the consultation conducted pursuant to paragraph (1) of this subsection and make a final determination to grant or deny the written request of grade retention.

(3) When a written request of grade retention is submitted pursuant to this act, and the student will attend a school outside of the school district of residence during the 2021-2022 school year, the superintendent of the school district of residence shall transmit the written request, as soon as practicable, to the superintendent or other chief administrative officer of the school of attendance.

c. Nothing in this section shall be construed to limit, supersede, or preempt the rights, privileges, remedies, or procedures afforded to students with disabilities under federal or State law or regulation and any provision of an individualized education program and the "Individuals with Disabilities Education Act," 20 U.S.C.1400 et seq., or a plan developed pursuant to section 504 of the federal "Rehabilitation Act of 1973," 29 U.S.C. s.794.

d. A school district, charter school, or renaissance school project shall report the number of students enrolled in the schools of the district that repeat a grade level pursuant to the provisions of this act to the Department of Education in accordance with reporting requirements to be established by the department.

e. As used in this section, "school of attendance" means a public school.

3. This act shall take effect immediately.

Approved June 30, 2021.

CHAPTER 142

AN ACT establishing immunity relating to COVID-19 spread in planned real estate developments.

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

1. a. A planned real estate development shall be immune from civil liability for damages arising from, or related to, an exposure to, or transmission of, COVID-19 on the premises of the planned real estate development, so long as the planned real estate development has prominently displayed at the entrance of any communal space shared by the planned real estate development's residents and their guests, such as pools, gyms, and clubhouses, a sign stating the following warning:

"ANY PERSON ENTERING THE PREMISES WAIVES ALL CIVIL LIABILITY AGAINST THE PLANNED REAL ESTATE DEVELOPMENT FOR DAMAGES ARISING FROM, OR RELATED TO, AN EXPOSURE TO, OR TRANSMISSION OF, COVID-19 ON THE PREMISES, EXCEPT FOR ACTS OR OMISSIONS CONSTITUTING A CRIME, ACTUAL FRAUD, ACTUAL MALICE, GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT."

b. The immunity provided pursuant to subsection a. of this section shall not apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct.

c. Nothing in this section shall be construed to limit or modify any claim for relief under the workers' compensation law, R.S.34:15-1 et seq.

d. As used in this section:

"COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

"Planned real estate development" means the same as that term is defined in section 3 of P.L.1977, c.419 (C.45:22A-23).

2. This act shall take effect immediately and shall expire on the first day of calendar year 2022.

Approved July 1, 2021.

CHAPTER 143

AN ACT concerning the liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency, and amending P.L.2020, c.150.

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

1. Section 1 of P.L.2020, c.150 (C.43:21-7.9) is amended to read as follows:

C.43:21-7.9 Unemployment compensation benefits for 2020 not considered in employer's reserve ratio.

1. a. The costs of any unemployment compensation benefits paid to employees of an employer during the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of that public health emergency and state of emergency, shall not be considered when calculating that employer's reserve ratio for the purposes of determining the rate of the employer's contributions to the State unemployment compensation fund pursuant to R.S.43:21-7.

b. Any employer that is a nonprofit organization which elects to make payments in lieu of contributions pursuant to section 3 of P.L.1971, c.346 (C.43:21-7.2) or is a governmental entity or instrumentality which elects to make payments in lieu of contributions pursuant to section 4 of P.L.1971, c.346 (C.43:21-7.3), shall not be liable for payments in lieu of contributions with respect to the payments of unemployment compensation benefits made pursuant to either of those two sections during the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of that public health emergency and state of emergency, except that the employer shall be required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. Any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act, public law 116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, or pursuant to any other applicable federal law, shall not result in a liability for the employer but shall be regarded as State liability relief to the employer and shall be paid from the unemployment compensation fund. Any reimbursing employer who, prior to the effective date of this act, made payments in lieu of contributions during the public health emergency shall be entitled to a reimbursement from the unemployment compensation fund of all of those payments in lieu of contributions made during this period, except that the employer shall not be reimbursed for payments made in lieu of contributions from funds held in trust for that purpose from contributions made by its employees.

2. From the funds provided by the federal government in connection with the COVID-19 pandemic pursuant to the federal CARES Act, Pub.L.116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, Pub.L.117-2, or pursuant to any other applicable federal law, any portions of those funds which are available and permitted by those laws may be used as needed to reimburse the unemployment compensation fund for any costs of providing State liability relief to employers pursuant to subsection b. of section 1 of P.L.2020, c.150 (C.43:21-7.9).

3. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 144

AN ACT concerning licensed and registered child care providers, appropriating $100,000,000, and supplementing Title 52 of the New Jersey Statutes.

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

1. a. There is appropriated to the Division of Disaster Recovery and Mitigation in the Department of Community Affairs $15,500,000 in federal funds allocated to the State from the federal "Coronavirus State Fiscal Recovery Fund" established pursuant to the federal "American Rescue Plan Act", Pub.L.117-2, and such amounts shall be made available to the Department of Children and Families to create workforce development supports and conduct a child care landscape study, and of such amounts, not more than 2.5 percent, subject to the division's ultimate review and approval, shall be utilized by the Department of Children and Families for organizational, administrative and other work and services, including salaries, equipment, services, and materials necessary to administer the activities authorized by this subsection. The Department of Children and Families shall enter into a memorandum of understanding or grant agreement, as applicable, with the division to effectuate the purposes of this subsection, to establish appropriate administrative costs, and to ensure compliance with federal rules and guidance, including with respect to the "American Rescue Plan Act," Pub.L.117-2.

b. The division shall be the State's grant manager for federal "Coronavirus State Fiscal Recovery Funds," and is responsible for ensuring compliance with all applicable federal rules and regulations for this act, including, but not limited to, submitting all required reporting and documentation to the United States Department of the Treasury in accordance with federal rules, including with respect to the "American Rescue Plan Act," Pub.L.117-2. As the State's grant manager for federal "Coronavirus State Fiscal Recovery Funds," the division shall require funds for organizational, administrative, and other work and services, including salaries, services, equipment, and materials necessary to administer the applicable provisions of this act.

c. Notwithstanding the provisions of subsection a. of this section to the contrary, the division may transfer the uncommitted balance of any funds made available pursuant to this section for any use authorized under this act. The division shall submit notice to the Joint Budget Oversight Committee no less than five calendar days before the date of the transfer. The notice shall indicate the amount of the transferred funds and the purpose for which the funds are transferred.

2. a. There is appropriated to the Division of Disaster Recovery and Mitigation in the Department of Community Affairs $54,500,000 in federal funds allocated to the State from the federal "Coronavirus State Fiscal Recovery Fund" established pursuant to the federal "American Rescue Plan Act", Pub.L.117-2, and such amounts shall be made available to the New Jersey Economic Development Authority for the purpose of providing technical assistance to licensed child care providers, registered family child care homes and grants to child care providers for facilities improvements which grants shall be allocated, on a rolling basis, to licensed child care providers, registered family child care homes, and child care providers, and of such amounts, not more than 2.5 percent, subject to the division's ultimate review and approval, shall be utilized by the New Jersey Economic Development Authority for organizational, administrative and other work and services, including salaries, equipment, services, and materials necessary to administer the activities authorized by this subsection. The New Jersey Economic Development Authority shall enter into a memorandum of understanding or grant agreement, as applicable, with the division to effectuate the purposes of this subsection, to establish appropriate administrative costs, and to ensure compliance with federal rules and guidance, including with respect to the "American Rescue Plan Act," Pub.L.117-2.

b. The division shall be the State's grant manager for federal "Coronavirus State Fiscal Recovery Funds," and is responsible for ensuring compliance with all applicable federal rules and regulations for this act, including, but not limited to, submitting all required reporting and documentation to the United States Department of the Treasury in accordance with federal rules, including with respect to the "American Rescue Plan Act," Pub.L.117-2. As the State's grant manager for federal "Coronavirus State Fiscal Recovery Funds," the division shall require funds for organizational, administrative, and other work and services, including salaries, services, equipment, and materials necessary to administer the applicable provisions of this act.

c. Notwithstanding the provisions of subsection a. of this section to the contrary, the division may transfer the uncommitted balance of any funds made available pursuant to this section for any use authorized under this act. The division shall submit notice to the Joint Budget Oversight Committee no less than five calendar days before the date of the transfer. The notice shall indicate the amount of the transferred funds and the purpose for which the funds are transferred.

3. a. There is appropriated to the Division of Disaster Recovery and Mitigation in the Department of Community Affairs $30,000,000 in federal funds allocated to the State from the federal "Coronavirus State Fiscal Recovery Fund" established pursuant to the federal "American Rescue Plan Act", Pub.L.117-2, and such amounts shall be made available to the Department of Human Services for the purpose of providing grants to the licensed child care providers, registered family day care providers, or employees of licensed child care providers or registered family day care providers , which grants shall be allocated, on a rolling basis, to licensed child care providers, registered family day care providers, or employees of licensed child care providers or registered family day care providers within 45 days of the department's receipt of a complete qualifying application, and of such amounts, not more than 2.5 percent, subject to the division's ultimate review and approval, shall be utilized by the Department of Human Services for organizational, administrative and other work and services, including salaries, equipment, services, and materials necessary to administer the activities authorized by this subsection. The Department of Human Services shall enter into a memorandum of understanding or grant agreement, as applicable, with the division to effectuate the purposes of this act subsection, to establish appropriate administrative costs, and to ensure compliance with federal rules

and guidance, including with respect to the "American Rescue Plan Act," Pub.L.117-2.

b. The division shall be the State's grant manager for federal "Coronavirus State Fiscal Recovery Funds," and is responsible for ensuring compliance with all applicable federal rules and regulations for this section, including, but not limited to, submitting all required reporting and documentation to the United States Department of the Treasury in accordance with federal rules, including with respect to the "American Rescue Plan Act," Pub.L.117-2. As the State's grant manager for federal "Coronavirus State Fiscal Recovery Funds," the division shall require funds for organizational, administrative, and other work and services, including salaries, services, equipment, and materials necessary to administer the applicable provisions of this act.

c. Notwithstanding the provisions of subsection a. of this section to the contrary, the division may transfer the uncommitted balance of any funds made available pursuant to this section for any use authorized under this act. The division shall submit notice to the Joint Budget Oversight Committee no less than five calendar days before the date of the transfer. The notice shall indicate the amount of the transferred funds and the purpose for which the funds are transferred.

4. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 145

AN ACT concerning project grants under the "Securing Our Children's Future Fund" for school security projects in certain school districts and making an appropriation.

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

1. a. There is appropriated from the "Securing Our Children's Future Fund," established pursuant to section 13 of P.L.2018, c.119, to the Department of Education the sum of $65,423,243 to provide grants for school security projects in New Jersey's school districts. Project grants shall be approved in the amounts set forth in subsection b. of this section.

b. Project grants shall be awarded in the amounts as follows:

(1) $43,727 to the Absecon Public School District in Atlantic County;

(2) $105,956 to the Atlantic County Vocational School District in Atlantic County;

(3) $20,000 to the Atlantic County Special Services School District in Atlantic County;

(4) $27,388 to the Brigantine Public School District in Atlantic County;

(5) $91,392 to the Buena Regional School District in Atlantic County;

(6) $26,046 to the Egg Harbor City School District in Atlantic County;

(7) $413,515 to the Egg Harbor Township School District in Atlantic County;

(8) $21,004 to the Folsom Borough School District in Atlantic County;

(9) $170,923 to the Galloway Township Public School District in Atlantic County;

(10) $198,925 to the Greater Egg Harbor Regional High School District in Atlantic County;

(11) $145,633 to the Hamilton Township School District in Atlantic County;

(12) $196,901 to the Hammonton School District in Atlantic County;

(13) $44,013 to the Linwood City School District in Atlantic County;

(14) $78,824 to the Mainland Regional High School District in Atlantic County;

(15) $20,000 to the Margate City School District in Atlantic County;

(16) $34,853 to the Mullica Township School District in Atlantic County;

(17) $49,108 to the Northfield City School District in Atlantic County;

(18) $182,739 to the Pleasantville Public School District in Atlantic County;

(19) $20,000 to the Port Republic School District in Atlantic County;

(20) $43,685 to the Somers Point School District in Atlantic County;

(21) $32,868 to the Ventnor City School District in Atlantic County;

(22) $19,870 to the Weymouth Township School District in Atlantic County;

(23) $45,188 to the Allendale Public School District in Bergen County;

(24) $20,000 to the Alpine School District in Bergen County;

(25) $32,000 to the Bergen County Vocational Technical School District in Bergen County;

(26) $199,159 to the Bergenfield Borough School District in Bergen County;

(27) $62,152 to the Bogota Public School District in Bergen County;

(28) $13,214 to the Carlstadt Public School District in Bergen County;

(29) $173,129 to the Cliffside Park School District in Bergen County;

(30) $47,214 to the Closter Public School District in Bergen County;

(31) $102,205 to the Cresskill Public School District in Bergen County;

(32) $34,751 to the Demarest School District in Bergen County;

(33) $140, 208 to the Dumont Public School District in Bergen County;

(34) $49,227 to the Edgewater School District in Bergen County;
(35) $60,236 to the Emerson Public School District in Bergen County;
(36) $25,434 to the Englewood Cliffs School District in Bergen County;
(37) $281,979 to the Fair Lawn Public School District in Bergen County;
(38) $72,308 to the Fairview Public School District in Bergen County;
(39) $239,077 to the Garfield Public School District in Bergen County;
(40) $142,792 to the Glen Rock Public School District in Bergen County;
(41) $313,241 to the Hackensack School District in Bergen County;
(42) $31,883 to the Harrington Park School District in Bergen County;
(43) $101,796 to the Hasbrouck Heights School District in Bergen County;
(44) $59,934 to the Hillsdale School District in Bergen County;
(45) $31,606 to the Ho-Ho-Kus School District in Bergen County;
(46) $111,838 to the Leonia Public School District in Bergen County;
(47) $45,218 to the Little Ferry Public School District in Bergen County;
(48) $166,345 to the Lodi School District in Bergen County;
(49) $138,363 to the Lyndhurst School District in Bergen County;
(50) $160,647 to the Mahwah Township Public School District in Bergen County;
(51) $52,549 to the Maywood School District in Bergen County;
(52) $50,392 to the Midland Park School District in Bergen County;
(53) $51,420 to the Montvale Board of Education School District in Bergen County;
(54) $20,000 to the Moonachie School District in Bergen County;
(55) $113,855 to the New Milford Public School District in Bergen County;
(56) $64,491 to the North Arlington School District in Bergen County;
(57) $88,661 to the Northern Highlands Regional High School District in Bergen County;
(58) $150,513 to the Northern Valley Regional High School District in Bergen County;
(59) $19,980 to the Northvale Public School District in Bergen County;
(60) $32,279 to the Norwood Public School District in Bergen County;
(61) $71,109 to the Oakland Public School District in Bergen County;
(62) $34,705 to the Old Tappan School District in Bergen County;
(63) $39,735 to the Oradell Public School District in Bergen County;
(64) $94,585 to the Palisades Park School District in Bergen County;
(65) $210,495 to the Paramus Public School District in Bergen County;
(66) $131,797 to the Pascack Valley Regional High School District in Bergen County;
(67) $146,782 to the Ramapo Indian Hills Regional High School District in Bergen County;

(68) $154,356 to the Ramsey School District in Bergen County;
(69) $93,311 to the Ridgefield School District in Bergen County;
(70) $127,952 to the Ridgefield Park Public School District in Bergen County;
(71) $323,215 to the Ridgewood Public School District in Bergen County;
(72) $97,740 to the River Dell Regional School District in Bergen County;
(73) $64,113 to the River Edge School District in Bergen County;
(74) $59,626 to the River Vale Public School District in Bergen County;
(75) $145,249 to the Rutherford School District in Bergen County;
(76) $20,000 to the Saddle River School District in Bergen County;
(77) $17,338 to the South Bergen Jointure Commission School District in Bergen County;
(78) $20,000 to the South Hackensack School District in Bergen County;
(79) $211,375 to the Tenafly Public School District in Bergen County;
(80) $59,493 to the Upper Saddle River School District in Bergen County;
(81) $89,252 to the Waldwick School District in Bergen County;
(82) $70,558 to the Wallington Boro School District in Bergen County;
(83) $155,581 to the Westwood Regional School District in Bergen County;
(84) $66,888 to the Wood-Ridge School District in Bergen County;
(85) $38,914 to the Woodcliff Lake School District in Bergen County;
(86) $102,401 to the Wyckoff Township Public School District in Bergen County;
(87) $140,402 to the Bordentown Regional School District in Burlington County;
(88) $81,672 to the Burlington City Public School District in Burlington County;
(89) $34,187 to the Burlington County Special Services School District in Burlington County;
(90) $134,502 to the Burlington County Institute of Technology School District in Burlington County;
(91) $208,877 to the Burlington Township School District in Burlington County;
(92) $3,095 to the Chesterfield Township School District in Burlington County;
(93) $145,514 to the Cinnaminson Township School District in Burlington County;
(94) $22,080 to the Delanco Township School District in Burlington County;
(95) $167,493 to the Delran Township School District in Burlington County;
(96) $31,708 to the Eastampton Township School District in Burlington County;

(97) $46,891 to the Edgewater Park Township School District in Burlington County;

(98) $240,946 to the Evesham Township School District in Burlington County;

(99) $87,088 to the Florence Township School District in Burlington County;

(100) $30,347 to the Hainesport Township School District in Burlington County;

(101) $435,075 to the Lenape Regional High School District in Burlington County;

(102) $65,503 to the Lumberton Township Board of Education in Burlington County;

(103) $141,021 to the Medford Township School District in Burlington County;

(104) $233,908 to the Moorestown Township Public School District in Burlington County;

(105) $52,766 to the Mount Holly Township Public School District in Burlington County;

(106) $214,906 to the Mount Laurel Township School District in Burlington County;

(107) $49,270 to the North Hanover Township School District in Burlington County;

(108) $132,897 to the Northern Burlington County Regional School District in Burlington County;

(109) $49,746 to the Palmyra Public School District in Burlington County;

(110) $235,975 to the Pemberton Township School District in Burlington County;

(111) $131,609 to the Rancocas Valley Regional High School District in Burlington County;

(112) $73,830 to the Riverside Township School District in Burlington County;

(113) $20,000 to the Riverton School District in Burlington County;

(114) $38,743 to the Shamong Township School District in Burlington County;

(115) $19,616 to the Springfield Township School District in Burlington County;

(116) $37,032 to the Tabernacle Township School District in Burlington County;

(117) $51,564 to the Westampton Township Public School District in Burlington County;

(118) $175,224 to the Willingboro Public School District in Burlington County;

(119) $19,414 to the Woodland Township School District in Burlington County;

(120) $85,952 to the Audubon Public School District in Camden County;

(121) $31,640 to the Barrington School District in Camden County;

(122) $57,728 to the Bellmawr Public School District in Camden County;

(123) $43,455 to the Berlin Borough School District in Camden County;

(124) $225,735 to the Black Horse Pike Regional School District in Camden County;

(125) $20,000 to Brooklawn Public School District in Camden County;

(126) $601,521 to the Camden City School District in Camden County;

(127) $135,145 to the Camden County Technical School District in Camden County;

(128) $608,190 to the Cherry Hill School District in Camden County;

(129) $125,951 to the Eastern Camden County Regional School District in Camden County;

(130) $20,000 to the Gibbsboro Elementary School District in Camden County;

(131) $111,338 to the Gloucester City Public School District in Camden County;

(132) $330,189 to the Gloucester Township Public Schools in Camden County;

(133) $85,294 to the Haddon Heights School District in Camden County;

(134) $113,688 to the Haddon Township School District in Camden County;

(135) $153,017 to the Haddonfield School District in Camden County;

(136) $146,144 to the Lindenwold Public School District in Camden County;

(137) $20,540 to the Magnolia School District in Camden County;

(138) $21,875 to the Merchantville School District in Camden County;

(139) $10,881 to the Mt. Ephraim School District in Camden County;

(140) $256,539 to the Pennsauken Township Board of Education School District in Camden County;

(141) $103,621 to the Pine Hill School District in Camden County;

(142) $41,678 to the Runnemede Public School District in Camden County;

(143) $61,529 to the Sterling Regional School District in Camden County;

(144) $44,592 to the Stratford School District in Camden County;

(145) $158,702 to the Voorhees Township School District in Camden County;

(146) $259,306 to the Winslow Township School District in Camden County;

(147) $10,175 to the Woodlynne School District in Camden County;

(148) $20,000 to the Avalon School District in Cape May County;

(149) $20,000 to the Cape May City School District in Cape May County;

(150) $20,000 to the Cape May County Special Services School District in Cape May County;

(151) $41,405 to the Cape May County Technical High School District in Cape May County;

(152) $27,418 to the Dennis Township School District in Cape May County;

(153) $57,213 to the Lower Township Elementary School District in Cape May County;

(154) $136,278 to the Middle Township Public School District in Cape May County;

(155) $20,000 to the North Wildwood City School District in Cape May County;

(156) $126,266 to the Ocean City School District in Cape May County;

(157) $20,000 to the Stone Harbor School District in Cape May County;

(158) $74,234 to the Upper Township School District in Cape May County;

(159) $20,000 to the West Cape May School District in Cape May County;

(160) $44,426 to the Wildwood City School District in Cape May County;

(161) $20,000 to the Wildwood Crest Borough School District in Cape May County;

(162) $20,000 to the Woodbine School District in Cape May County;

(163) $318,543 to the Bridgeton City School District in Cumberland County;

(164) $26,776 to the Commercial Township School District in Cumberland County;

(165) $45,520 to the Cumberland County Board of Vocational Education in Cumberland County;

(166) $66,994 to the Cumberland Regional School District in Cumberland County;

(167) $20,000 to the Deerfield Township School District in Cumberland County;

(168) $20,000 to the Downe Township School District in Cumberland County;

(169) $25,400 to the Fairfield Township School District in Cumberland County;

(170) $20,000 to the Greenwich Township School District in Cumberland County;

(171) $24,149 to the Lawrence Township School District in Cumberland County;

(172) $20,000 to the Maurice River Township School District in Cumberland County;

(173) $276,338 to the Millville School District in Cumberland County;

(174) $20,000 to the Stow Creek Township School District in Cumberland County;

(175) $41,941 to the Upper Deerfield Township School District in Cumberland County;

(176) $527,555 to the Vineland Public School District in Cumberland County;

(177) $250,420 to the Belleville Public School District in Essex County;

(178) $353,439 to the Bloomfield Township School District in Essex County;

(179) $148,190 to the Caldwell-West Caldwell School District in Essex County;

(180) $87,394 to the Cedar Grove Township School District in Essex County;

(181) $487,759 to the East Orange School District in Essex County;

(182) $34,062 to the Fairfield Public School District in Essex County;

(183) $103,299 to the Glen Ridge Public School District in Essex County;

(184) $269,483 to the Millburn Township School District in Essex County;

(185) $1,933,389 to the Newark Public School District in Essex County;

(186) $33,507 to the North Caldwell School District in Essex County;

(187) $267,471 to the Orange Board of Education School District in Essex County;

(188) $24,078 to the Roseland School District in Essex County;

(189) $398,193 to the South Orange-Maplewood School District in Essex County;

(190) $125,290 to the Verona Public School District in Essex County;

(191) $104,331 to the West Essex Regional School District in Essex County;

(192) $375,295 to the West Orange Public Schools in Essex County;

(193) $77,148 to the Clayton Public School District in Gloucester County;

(194) $140,832 to the Clearview Regional High School District in Gloucester County;

(195) $221,268 to the Deptford Township Public School District in Gloucester County;

(196) $66,486 to the East Greenwich Township School District in Gloucester County;

(197) $20,000 to the Elk Township School District in Gloucester County;

(198) $21,200 to the Township of Franklin School District in Gloucester County;

(199) $54,302 to the Gateway Regional High School District in Gloucester County;

(200) $104,313 to the Glassboro School District in Gloucester County;

(201) $33,513 to the Gloucester County Special Services School District in Gloucester County;

(202) $95,412 to the Gloucester County Vocational-Technical School District in Gloucester County;

(203) $21,423 to the Greenwich Township School District in Gloucester County;

(204) $70,808 to the Harrison Township School District in Gloucester County;

(205) $112,489 to the Kingsway Regional School District in Gloucester County;

(206) $28,355 to the Logan Township School District in Gloucester County;

(207) $60,524 to the Mantua Township School District in Gloucester County;

(208) $327,416 to the Monroe Township School District in Gloucester County;

(209) $20,000 to the National Park Boro School District in Gloucester County;

(210) $62,581 to the Paulsboro School District in Gloucester County;

(211) $70,277 to the Pitman Boro School District in Gloucester County;

(212) $20,000 to the South Harrison Township School District in Gloucester County;

(213) $99,252 to the Delsea Regional High School District in Gloucester County;

(214) $84,253 to the Swedesboro-Woolwich School District in Gloucester County;

(215) $406,794 to the Washington Township School District in Gloucester County;

(216) $20,000 to the Wenonah Boro School District in Gloucester County;

(217) $159,602 to the West Deptford Township School District in Gloucester County;

(218) $20,000 to the Westville Boro Public School District in Gloucester County;

(219) $78,655 to the Woodbury City Public School District in Gloucester County;

(220) $20,000 to the Woodbury Heights Public School District in Gloucester County;

(221) $470,826 to the Bayonne School District in Hudson County;
(222) $116,162 to the Harrison Public Schools in Hudson County;
(223) $105,055 to the Hoboken Public School District in Hudson County;
(224) $1,371,821 to the Jersey City Public Schools in Hudson County;
(225) $292,111 to the Kearny School District in Hudson County;
(226) $414,607 to the North Bergen School District in Hudson County;
(227) $123,850 to the Secaucus School District in Hudson County;
(228) $648,584 to the Union City School District in Hudson County;
(229) $13,500 to the Weehawken Public School District in Hudson County;
(230) $24,606 to the Alexandria Township School District in Hunterdon County;
(231) $20,000 to the Bethlehem Township School District in Hunterdon County;
(232) $20,000 to the Bloomsbury Borough School District in Hunterdon County;
(233) $12,988 to the Califon Borough School District in Hunterdon County;
(234) $22,225 to the Clinton-Glen Gardner School District in Hunterdon County;
(235) $65,255 to the Clinton Township School District in Hunterdon County;
(236) $46,356 to the Delaware Valley Regional High School District in Hunterdon County;
(237) $20,000 to the East Amwell Township School District in Hunterdon County;
(238) $50,802 to the South Hunterdon Regional School District in Hunterdon County;
(239) $163,549 to the Flemington-Raritan Regional School District in Hunterdon County;
(240) $20,000 to the Franklin Township School District in Hunterdon County;
(241) $20,000 to the Frenchtown Borough School District in Hunterdon County;
(242) $19,742 to the Hampton Borough School District in Hunterdon County;
(243) $20,000 to the High Bridge Borough School District in Hunterdon County;
(244) $19,568 to the Holland Township School District in Hunterdon County;
(245) $182,851 to the Hunterdon Central Regional High School District in Hunterdon County;

(246) $17,051 to the Hunterdon County Educational Services Commission in Hunterdon County;

(247) $41,019 to the Hunterdon County Vocational School District in Hunterdon County;

(248) $20,000 to the Kingwood Township School District in Hunterdon County;

(249) $11,711 to the Lebanon Borough School District in Hunterdon County;

(250) $33,265 to the Lebanon Township School District in Hunterdon County;

(251) $20,000 to the Milford Borough School District in Hunterdon County;

(252) $164,720 to the North Hunterdon-Voorhees Regional High School District in Hunterdon County;

(253) $78,551 to the Readington Township School District in Hunterdon County;

(254) $28,557 to the Tewksbury Township School District in Hunterdon County;

(255) $23,861 to the Union Township School District in Hunterdon County;

(256) $654,652 to the Hamilton Township Public School District in Mercer County;

(257) $197,057 to the Hopewell Valley Regional School District in Mercer County;

(258) $212,195 to the Lawrence Township Public School District in Mercer County;

(259) $217,982 to the Princeton Public Schools in Mercer County;

(260) $666,954 to the Trenton Public Schools in Mercer County;

(261) $179,463 to the Robbinsville Public Schools in Mercer County;

(262) $546,121 to the West Windsor-Plainsboro Regional School District in Mercer County;

(263) $206,100 to the Carteret Public School District in Middlesex County;

(264) $69,098 to the Dunellen Public School District in Middlesex County;

(265) $465,045 to the East Brunswick Township School District in Middlesex County;

(266) $916,092 to the Edison Township School District in Middlesex County;

(267) $87,823 to the Highland Park Boro School District in Middlesex County;

(268) $32,137 to the Jamesburg Public School District in Middlesex County;

(269) $116,934 to the Middlesex Borough School District in Middlesex County;

(270) $31,637 to the Educational Services Commission of New Jersey in Middlesex County;

(271) $140,802 to the Middlesex County Vocational and Technical School District in Middlesex County;

(272) $39,458 to the Milltown School District in Middlesex County;

(273) $389,873 to the Monroe Township School District in Middlesex County;

(274) $500,953 to the New Brunswick School District in Middlesex County;

(275) $319,774 to the North Brunswick Township School District in Middlesex County;

(276) $479,797 to the Old Bridge Township School District in Middlesex County;

(277) $524,985 to the Perth Amboy Public School District in Middlesex County;

(278) $399,333 to the Piscataway Township School District in Middlesex County;

(279) $347,785 to the Sayreville School District in Middlesex County;

(280) $58,079 to the South Amboy School District in Middlesex County;

(281) $488,892 to the South Brunswick School District in Middlesex County;

(282) $187,438 to the South Plainfield School District in Middlesex County;

(283) $123,322 to the South River Public School District in Middlesex County;

(284) $94,410 to the Spotswood Public School District in Middlesex County;

(285) $776,731 to the Woodbridge Township School District in Middlesex County;

(286) $85,646 to the Asbury Park School District in Monmouth County;

(287) $9,875 to the Avon Boro School District in Monmouth County;

(288) $20,000 to the Bayshore Jointure Commission School District in Monmouth County;

(289) $23,461 to the Belmar Elementary School District in Monmouth County;

(290) $20,000 to the Bradley Beach School District in Monmouth County;

(291) $26,769 to the Brielle Boro School District in Monmouth County;

(292) $48,386 to Colts Neck Township School District in Monmouth County;

(293) $20,000 to the Deal Boro School District in Monmouth County;

(294) $49,295 to the Eatontown Public School District in Monmouth County;

(295) $51,024 to the Fair Haven School District in Monmouth County;

(296) $84,470 to the Freehold Borough School District in Monmouth County;

(297) $686,207 to the Freehold Regional High School District in Monmouth County;

(298) $197,560 to the Freehold Township School District in Monmouth County;

(299) $158,776 to the Hazlet Township Public School District in Monmouth County;

(300) $20,383 to the Henry Hudson Regional School District in Monmouth County;

(301) $20,000 to the Highlands Borough School District in Monmouth County;

(302) $170,336 to the Holmdel Township School District in Monmouth County;

(303) $292,067 to the Howell Township Public School District in Monmouth County;

(304) $79,476 to the Keansburg Borough School District in Monmouth County;

(305) $57,128 to the Keyport School District in Monmouth County;

(306) $43,849 to the Little Silver Boro School District in Monmouth County;

(307) $286,080 to the Long Branch Public School District in Monmouth County;

(308) $264,480 to the Manalapan-Englishtown Regional Schools School District in Monmouth County;

(309) $90,569 to the Manasquan School District in Monmouth County;

(310) $255,929 to the Marlboro Township School District in Monmouth County;

(311) $209,619 to the Matawan-Aberdeen Regional School District in Monmouth County;

(312) $538,389 to the Middletown Township Public School District in Monmouth County;

(313) $20,000 to the Monmouth Beach School District in Monmouth County;

(314) $20,000 to the Monmouth-Ocean Educational Services Commission School District in Monmouth County;

(315) $170,571 to the Monmouth County Vocational School District in Monmouth County;

(316) $62,236 to the Monmouth Regional High School District in Monmouth County;

(317) $30,925 to the Oceanport School District in Monmouth County;

(318) $62,160 to the Red Bank Borough School District in Monmouth County;

(319) $77,667 to the Red Bank Regional School District in Monmouth County;

(320) $12,424 to the Roosevelt Borough Public School District in Monmouth County;

(321) $52,482 to the Rumson Borough School District in Monmouth County;

(322) $63,265 to the Rumson-Fair Haven Regional High School District in Monmouth County;

(323) $19,025 to the Sea Girt Borough School District in Monmouth County;

(324) $41,662 to the Shore Regional High School District in Monmouth County;

(325) $20,000 to the Spring Lake Borough School District in Monmouth County;

(326) $20,000 to the Spring Lake Heights School District in Monmouth County;

(327) $75,862 to the Tinton Falls School District in Monmouth County;

(328) $134,153 to the Upper Freehold Regional School District in Monmouth County;

(329) $192,395 to the Wall Township Public School District in Monmouth County;

(330) $29,054 to the West Long Branch School District in Monmouth County;

(331) $79,512 to Boonton Town School District in Morris County;

(332) $21,609 to Boonton Township School District in Morris County;

(333) $67,565 to Butler Public School District in Morris County;

(334) $234,432 to the School District of the Chathams in Morris County;

(335) $56,961 to the Chester Township School District in Morris County;

(336) $86,023 to the Denville Township K-8 School District in Morris County;

(337) $176,812 to the Dover Public School District in Morris County;

(338) $47,039 to the East Hanover Township School District in Morris County;

(339) $51,663 to the Florham Park School District in Morris County;

(340) $95,155 to the Hanover Park Regional High School District in Morris County;

(341) $72,991 to the Hanover Township School District in Morris County;

(342) $20,000 to the Harding Township School District in Morris County;

(343) $161,151 to the Jefferson Township Public School District in Morris County;

(344) $103,773 to the Kinnelon School District in Morris County;

(345) $46,500 to the Lincoln Park School District in Morris County;

(346) $148,864 to the Madison Public School District in Morris County;

(347) $27,351 to the Mendham Borough School District in Morris County;

(348) $35,139 to the Mendham Township School District in Morris County;

(349) $20,000 to the Mine Hill Township School District in Morris County;

(350) $203,646 to the Montville Township School District in Morris County;

(351) $177,193 to the Morris Hills Regional School District in Morris County;

(352) $30,415 to the Morris Plains School District in Morris County;

(353) $291,282 to the Morris School District in Morris County;

(354) $20,000 to the Mount Arlington Public School District in Morris County;

(355) $263,065 to the Mount Olive Township School District in Morris County;

(356) $87,046 to the Mountain Lakes Public School District in Morris County;

(357) $20,000 to the Netcong School District in Morris County;

(358) $400,367 to the Parsippany-Troy Hills Township School District in Morris County;

(359) $43,822 to the Long Hill Township School District in Morris County;

(360) $118,680 to the Pequannock Township School District in Morris County;

(361) $20,000 to the Riverdale School District in Morris County;

(362) $29,028 to the Rockaway Borough School District in Morris County;

(363) $120,479 to the Rockaway Township School District in Morris County;

(364) $202,795 to the Roxbury Township School District in Morris County;

(365) $107,093 to the Washington Township School District in Morris County;

(366) $157,584 to the West Morris Regional High School District in Morris County;

(367) $38,614 to the Wharton Borough School District in Morris County;

(368) $175,944 to the Barnegat Township School District in Ocean County;

(369) $20,000 to the Bay Head Borough School District in Ocean County;

(370) $20,000 to the Beach Haven School District in Ocean County;

(371) $109,091 to the Berkeley Township School District in Ocean County;

(372) $481,056 to the Brick Township Public School District in Ocean County;

(373) $31,321 to the Central Regional School District in Ocean County;

(374) $20,000 to the Eagleswood Township School District in Ocean County;

(375) $20,000 to the Island Heights School District in Ocean County;

(376) $460,969 to the Jackson Township School District in Ocean County;

(377) $223,434 to the Lacey Township School District in Ocean County;

(378) $20,000 to the Lakehurst School District in Ocean County;

(379) $286,798 to the Lakewood Township School District in Ocean County;

(380) $20,000 to the Lavallette Borough School District in Ocean County;

(381) $68,455 to the Little Egg Harbor Township School District in Ocean County;

(382) $16,000 to the Long Beach Island Consolidated School District in Ocean County;

(383) $163,936 to the Manchester Township School District in Ocean County;

(384) $131,545 to the Ocean County Vocational Technical School District in Ocean County;

(385) $24,150 to the Ocean Township School District in Ocean County;

(386) $74,246 to the Pinelands Regional School District in Ocean County;

(387) $70,692 to the Plumsted Township School District in Ocean County;

(388) $157,967 to the Point Pleasant Borough School District in Ocean County;

(389) $45,135 to the Point Pleasant Beach School District in Ocean County;

(390) $178,855 to the Southern Regional School District in Ocean County;

(391) $107,902 to the Stafford Township School District in Ocean County;

(392) $868,170 to the Toms River Regional School District in Ocean County;

(393) $20,000 to the Tuckerton Borough School District in Ocean County;

(394) $28,511 to the Bloomingdale School District in Passaic County;

(395) $457,389 to the Clifton Public School District in Passaic County;

(396) $37,773 to the Haledon Public School District in Passaic County;

(397) $127,609 to the Hawthorne Public School District in Passaic County;

(398) $61,208 to the Lakeland Regional High School District in Passaic County;

(399) $44,853 to the Little Falls Township Public School District in Passaic County;

(400) $33,107 to the North Haledon School District in Passaic County;

(401) $704,058 to the Passaic City School District in Passaic County;

(402) $43,658 to the Passaic County Manchester Regional High School District in Passaic County;

(403) $75,738 to the Passaic Valley Regional High School District in Passaic County;

(404) $240,073 to the Passaic County Vocational School District in Passaic County;

(405) $1,366,739 to the Paterson Public School District in Passaic County;

(406) $94,469 to the Pompton Lakes School District in Passaic County;

(407) $42,752 to the Prospect Park Public School District in Passaic County;

(408) $62,155 to the Ringwood School District in Passaic County;

(409) $35,502 to the Totowa Public School District in Passaic County;

(410) $45,858 to the Wanaque School District in Passaic County;

(411) $438,895 to the Wayne Township Public School District in Passaic County;

(412) $184,847 to the West Milford Township Public School District in Passaic County;

(413) $56,337 to the Woodland Park School District in Passaic County;

(414) $20,000 to the Alloway Township School District in Salem County;

(415) $20,000 to the Elsinboro Township School District in Salem County;

(416) $20,000 to the The Lower Alloways Creek School District in Salem County;

(417) $20,000 to the Mannington Township School District in Salem County;

(418) $112,575 to the Penns Grove-Carneys Point Regional School District in Salem County;

(419) $92,908 to the Pennsville School District in Salem County;

(420) $93,043 to the Pittsgrove Township School District in Salem County;

(421) $20,000 to the Quinton Township School District in Salem County;

(422) $61,424 to the Salem City School District in Salem County;

(423) $20,000 to the Salem County Special Services School District in Salem County;

(424) $20,000 to the Upper Pittsgrove Township School District in Salem County;

(425) $83,626 to the Woodstown-Pilesgrove Regional School District in Salem County;

(426) $27,639 to the Bedminster Township Public School District in Somerset County;

(427) $303,316 to the Bernards Township School District in Somerset County;

(428) $103,136 to the Bound Brook School District in Somerset County;

(429) $75,961 to the Branchburg Township School District in Somerset County;

(430) $481,286 to the Bridgewater-Raritan Regional School District in Somerset County;

(431) $40,620 to the Green Brook Township School District in Somerset County;

(432) $419,412 to the Hillsborough Township School District in Somerset County;

(433) $84,490 to the Manville Borough School District in Somerset County;

(434) $185,207 to the North Plainfield School District in Somerset County;

(435) $42,562 to the Somerset County Vocational and Technical School District in Somerset County;

(436) $114,351 to the Somerset Hills Regional School District in Somerset County;

(437) $135,539 to the Somerville Public School District in Somerset County;

(438) $21,605 to the South Bound Brook Public School District in Somerset County;

(439) $88,259 to the Warren Township School District in Somerset County;

(440) $33,827 to the Watchung Borough School District in Somerset County;

(441) $127,301 to the Watchung Hills Regional High School District in Somerset County;

(442) $24,165 to the Andover Regional School District in Sussex County;

(443) $42,329 to the Byram Township School District in Sussex County;

(444) $26,054 to the Frankford Township Consolidated School District in Sussex County;

(445) $23,080 to the Franklin Borough School District in Sussex County;

(446) $20,000 to the Fredon Township School District in Sussex County;

(447) $22,339 to the Green Township School District in Sussex County;

(448) $20,000 to the Hamburg School District in Sussex County;

(449) $20,000 to the Hampton Township School District in Sussex County;

(450) $34,716 to the Hardyston Township School District in Sussex County;

(451) $57,350 to the High Point Regional High School District in Sussex County;

(452) $85,840 to the Hopatcong Borough School District in Sussex County;

(453) $58,300 to the Kittatinny Regional School District in Sussex County;

(454) $19,747 to the Lafayette Township School District in Sussex County;

(455) $44,427 to the Lenape Valley Regional High School District in Sussex County;

(456) $20,000 to the Montague Township School District in Sussex County;

(457) $87,252 to the Newton Public School District in Sussex County;

(458) $20,000 to the Ogdensburg Borough School District in Sussex County;

(459) $18,968 to the Sandyston-Walpack Consolidated School District in Sussex County;

(460) $180,227 to the Sparta Township Public School District in Sussex County;

(461) $20,000 to the Stillwater Township School District in Sussex County;

(462) $16,625 to the Sussex County Educational Services Commission/Northern Hills Academy School District of Sussex County;

(463) $51,756 to the Sussex County Technical School District in Sussex County;

(464) $166,160 to the Vernon Township School District in Sussex County;

(465) $147,109 to Berkeley Heights School District in Union County;

(466) $125,800 to Clark Township Public School District in Union County;

(467) $1,412,614 to Elizabeth Public Schools in Union County;

(468) $82,165 to Kenilworth School District in Union County;

(469) $331,455 to Linden Public School District in Union County;

(470) $6,776 to Morris-Union Jointure Commission School District in Union County;

(471) $38,594 to Mountainside School District in Union County;

(472) $134,214 to New Providence School District in Union County;

(473) $431,300 to Plainfield Public School District in Union County;

(474) $212,332 to Rahway Public School District in Union County;
(475) $162,639 to Roselle Public Schools in Union County;
(476) $112,940 to Roselle Park Public School District in Union County;
(477) $309,128 to Scotch Plains-Fanwood School District in Union County;
(478) $119,757 to Springfield Public School District in Union County;
(479) $230,899 to Summit Public School District in Union County;
(480) $20,002 to Union County Educational Services Commission in Union County;
(481) $141,768 to Union County Vocational-Technical School District in Union County;
(482) $389,964 to Township of Union School District in Union County;
(483) $353,018 to Westfield Public School District in Union County;
(484) $20,000 to Winfield Township School District in Union County;
(485) $40,442 to Belvidere School District in Warren County;
(486) $35,109 to Greenwich Township School District in Warren County;
(487) $110,020 to Hackettstown Public School District in Warren County;
(488) $20,000 to Harmony Township School District in Warren County;
(489) $49,553 to North Warren Regional School District in Warren County;
(490) $20,000 to Oxford Township School District in Warren County;
(491) $29,961 to Warren County Vocational Technical School District in Warren County;
(492) $108,576 to Warren Hills Regional School District in Warren County;
(493) $21,561 to Washington Township School District in Warren County; and
(494) $20,000 to White Township Consolidated School District in Warren County.

2. There is appropriated from the "Securing Our Children's Future Fund" to the Department of Education the sum of $750,000 for the administrative costs of the agency in implementing current and future grants for eligible projects pursuant to the provisions of the "Securing Our Children's Future Bond Act," P.L.2018, c.119.

3. The expenditure of sums appropriated by this act shall be subject to the provisions and conditions of the "Securing Our Children's Future Bond Act," P.L.2018, 119.

4. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 146

AN ACT concerning project grants under the "Securing Our Children's Future Fund" for water infrastructure projects in certain school districts and making an appropriation.

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

1. a. There is appropriated from the "Securing Our Children's Future Fund," established pursuant to section 13 of P.L.2018, c.119, to the Department of Education the sum of $5,608,212 to provide grants for water infrastructure improvement projects in school districts. Project grants shall be approved in the amounts set forth in subsection b. of this section.

b. Project grants shall be awarded in the amounts as follows:

(1) $19,838 to the Buena Regional School District in Atlantic County;

(2) $22,435 to the Folsom Borough School District in Atlantic County;

(3) $12,280 to the Galloway Township School District in Atlantic County;

(4) $53,132 to the Bergenfield Borough School District in Bergen County;

(5) $30,993 to the Bogota Public School District in Bergen County;

(6) $109,600 to the Cresskill Public School District in Bergen County;

(7) $6,778 to the North Arlington School District in Bergen County;

(8) $30,382 to the Oakland Public School District in Bergen County;

(9) $28,211 to the Ramsey School District in Bergen County;

(10) $9,311 to the Waldwick School District in Bergen County;

(11) $18,011 to the Burlington City Public School District in Burlington County;

(12) $1,049 to the Voorhees Township School District in Camden County;

(13) $278,149 to the Waterford Township School District in Camden County;

(14) $122,050 to the Bridgeton City School District in Cumberland County;

(15) $4,061,618 to the Jersey City Public Schools in Hudson County;

(16) $204,094 to the South Hunterdon Regional School District, Hunterdon County;

(17) $16,812 to the Hamilton Township Public School District in Mercer County;

(18) $2,111 to the New Brunswick School District in Middlesex County;

(19) $5,670 to the South River Public School District in Middlesex County;

(20) $70,721 to the Shore Regional High School District in Monmouth County;

(21) $11,715 to the Madison Public School District in Morris County;
(22) $395,872 to the Passaic City School District in Passaic County;
(23) $16,454 to the Sandyston-Walpack Consolidated School District in Sussex County;
(24) $41,728 to the Stillwater Township School District in Sussex County;
(25) $13,198 to the Vernon Township School District in Sussex County; and
(26) $26,000 to the Plainfield Public School District in Union County.

2. There is appropriated from the "Securing Our Children's Future Fund" to the Department of Education the sum of $1,000,000 for the administrative costs of the agency in implementing current and future grants for eligible projects pursuant to the provisions of the "Securing Our Children's Future Bond Act," P.L.2018, c.119.

3. The expenditure of sums appropriated by this act shall be subject to the provisions and conditions of the "Securing Our Children's Future Bond Act," P.L.2018, 119.

4. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 147

AN ACT concerning project grants under the "Securing Our Children's Future Fund" to provide career and technical education at county colleges and making an appropriation.

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

1. a. There is appropriated from the "Securing Our Children's Future Fund," established pursuant to section 13 of P.L.2018, c.119, to the Secretary of Higher Education the sum of $25,956,996 to provide career and technical education grants to county colleges. Project grants shall be approved in the amounts set forth in subsection b. of this section.

b. Project grants shall be awarded in the amounts as follows:

(1) $4,000,000 to Atlantic Cape Community College in Mays Landing, Atlantic County;

(2) $1,937,711 to Brookdale Community College in Lincroft, Monmouth County;

(3) $4,000,000 to County College of Morris in Randolph, Morris County;

(4) $2,737,317 to Hudson County Community College in Jersey City, Hudson County;

(5) $4,000,000 to Mercer County Community College in West Windsor, Mercer County;

(6) $2,997,691 to Middlesex County College in Edison, Middlesex County;

(7) $2,104,752 to Ocean County College in Toms River, Ocean County;

(8) $2,650,500 to Union County College in Cranford, Union County; and

(9) $1,529,025 to Warren County Community College in West Washington, Warren County.

2. There is appropriated from the "Securing Our Children's Future Fund" to the Office of the Secretary of Higher Education the sum of $500,000 for the administrative costs of the agency in implementing the provisions of the "Securing Our Children's Future Bond Act," P.L.2018, c.119.

3. The expenditure of sums appropriated by this act shall be subject to the provisions and conditions of the "Securing Our Children's Future Bond Act," P.L.2018, c.119.

4. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 148

AN ACT concerning project grants under the "Securing Our Children's Future Fund" for career and technical education expansion in the State's county vocational school districts and making an appropriation.

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

1. a. There is appropriated from the "Securing Our Children's Future Fund," established pursuant to section 13 of P.L.2018, c.119, to the Department of Education the sum of $220,154,769 to provide grants for career and technical education expansion in the State's county vocational school

districts. Project grants shall be approved in the amounts set forth in subsection b. of this section.

b. Project grants shall be awarded in the amounts as follows:

(1) $40,000,000 to the Atlantic County Vocational School District in Atlantic County;

(2) $5,250,000 to the Camden County Technical School District for a project at the district's campus in Gloucester Township, Camden County;

(3) $6,750,000 to the Camden County Technical School District for a project at the district's campus in Pennsauken, Camden County;

(4) $4,299,141 to the Cape May County Technical High School District in Cape May County;

(5) $2,250,000 to the Cumberland County Board of Vocational Education in Cumberland County;

(6) $12,000,000 to the Gloucester County Vocational-Technical School District in Gloucester County;

(7) $15,000,000 to the Hunterdon County Vocational School District in Hunterdon County;

(8) $23,137,500 to the Middlesex County Vocational and Technical School District in Middlesex County;

(9) $7,215,805 to the Ocean County Vocational Technical School District in Ocean County;

(10) $17,250,000 to the Somerset County Vocational and Technical School District in Somerset County;

(11) $5,333,377 to the Union County Vocational-Technical School District for a project at the district's campus at Peterson Farm Park in Union County;

(12) $3,954,094 to the Union County Vocational-Technical School District at the district's Union County Vocational-Technical School District main campus in Union County;

(13) $25,875,000 to the Bergen County Vocational Technical School District in Bergen County;

(14) $9,930,113 to the Hudson County Schools of Technology School District in Hudson County;

(15) $18,596,246 to the Morris County Vocational School District in Morris County;

(16) $18,552,976 to the Passaic County Vocational School District in Passaic County; and

(17) $4,760,517 to the Sussex County Technical School District in Sussex County.

2. There is appropriated from the "Securing Our Children's Future Fund" to the Department of Education the sum of $2,750,000 for the administrative costs of the agency in implementing current and future grants for eligible projects pursuant to the provisions of the "Securing Our Children's Future Bond Act," P.L.2018, c.119.

3. The expenditure of sums appropriated by this act shall be subject to the provisions and conditions of the "Securing Our Children's Future Bond Act," P.L.2018, 119.

4. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 149

AN ACT temporarily adjusting summer working hours for certain minors.

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

1. A minor between 16 and 18 years of age may work up to 50 hours in one week during the period beginning on the last day of a minor's school year and ending on Labor Day, with written permission from a parent or legal guardian.

2. This act shall take effect immediately and shall expire on September 6 of 2021.

Approved July 1, 2021.

CHAPTER 150

AN ACT concerning the return of certain items purchased during a public health emergency and amending P.L.2020, c.16.

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

1. Section 1 of P.L.2020, c.16 (C.56:8-222) is amended to read as follows:

C.56:8-222 Findings, declarations relative to return of certain items purchased during a state of emergency.

1. a. The Legislature finds and declares that in response to the state of emergency and the public health emergency resulting from the COVID-19 pandemic, consumers have purchased large quantities of products in order to prepare for a possible quarantine or isolation period. The Centers for Disease Control and Prevention (CDC) had advised that COVID-19 may be spread from person-to-person from contaminated surfaces. The CDC further advised that COVID-19 could remain viable on contaminated surfaces for anywhere from hours to days. Following a quarantine or period of isolation, consumers attempted to return unused items purchased in bulk. The legislature found that in order to inhibit the further spread of COVID-19 and protect the public health, it was necessary to limit the return of groceries and other foodstuffs purchased during a state of emergency declared in response to COVID-19.

b. Pursuant to the end of the public health emergency, but the continuation of the state of emergency declared in response to COVID-19, the Legislature seeks to rescind the current restrictions on the return of certain items and clarify that, in the future, the prohibition on the return of certain products shall be limited to a declared public health emergency.

2. Section 3 of P.L.2020, c.16 (C.56:8-224) is amended to read as follows:

C.56:8-224 Unlawful practice, violation.

3. It shall be an unlawful practice, and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any retail food store to accept the return of any groceries and other foodstuffs purchased by a consumer during, and for 30 days following, a declared public health emergency. A retail food store may accept the return of groceries and other foodstuffs if it determines, in its sole discretion, that the groceries and other foodstuffs are unsafe for use or otherwise adulterated within the meaning of R.S.24:5-8 as a result of any manufacturing error or defect. Any groceries or other foodstuffs accepted for return by a retail food store pursuant to the provisions of this section shall not be offered for resale.

3. This act shall take effect immediately.

Approved July 1, 2021.

CHAPTER 151

AN ACT concerning prescription drug services provided under the Medicaid program and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-7dd Risk reduction model to prescription drug services, third party contract.

1. The Division of Medical Assistance and Health Services in the Department of Human Services shall contract with a third party entity to apply a risk reduction model to prescription drug services provided under the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), for the purpose of identifying and reducing simultaneous, multi-drug medication-related risk and adverse drug events, enhancing compliance and quality of care, and improving health-related outcomes while reducing total cost of care in a measurable and reportable manner. In carrying out this purpose, the model, at a minimum, shall leverage Medicaid prescription drug claims data, pharmacokinetic and pharmacodynamic sciences, appropriate technologies, clinical call centers located in New Jersey and staffed by board-certified pharmacists licensed pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), and include coordination of services with a network of local community pharmacies located throughout the State. For the duration of the contract, the division shall share the medical and pharmacy claims data for all Medicaid beneficiaries with the third party administering the model for the purposes of effectuating the model, which claims data shall include historical data.

2. This act shall take effect immediately.

Approved July 2, 2021.

CHAPTER 152

AN ACT concerning opioid antidotes, amending various parts of the statutory law, and supplementing P.L.2013, c.46 (C.24:6J-1 et al.).

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

1. Section 2 of P.L.2013, c.46 (C.24:6J-2) is amended to read as follows:

C.24:6J-2 Findings, declarations relative to overdose prevention.

2. The Legislature finds and declares that encouraging people who witness or experience a suspected drug overdose to seek medical assistance saves lives and is in the best interests of the citizens of this State and, in instances where evidence was obtained as a result of seeking of medical assistance, those people who witness or experience a suspected drug overdose should be protected from arrest, charge, prosecution, conviction, and revocation of parole or probation for possession or use of illegal drugs or drug paraphernalia. Additionally, naloxone is a safe, inexpensive, and easily administered antidote to an opioid overdose. Encouraging the wider prescription and distribution of naloxone or similarly acting drugs to those at risk for an opioid overdose, or to members of their families or peers, would reduce the number of opioid overdose deaths and be in the best interests of the citizens of this State. To that end, it is the intent of the Legislature that opioid antidotes be made as easily accessible and as widely available as possible, such that they are readily available at all times to provide treatment to people experiencing a suspected opioid overdose. It is not the intent of the Legislature to protect individuals from arrest, prosecution or conviction for other criminal offenses, including engaging in drug trafficking, nor is it the intent of the Legislature to in any way modify or restrict the current duty and authority of law enforcement and emergency responders at the scene of a medical emergency or a crime scene, including the authority to investigate and secure the scene.

2. Section 3 of P.L.2013, c.46 (C.24:6J-3) is amended to read as follows:

C.24:6J-3 Definitions relative to overdose prevention.

3. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Drug overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, diminished consciousness, respiratory depression, or death resulting from the consumption or use of a controlled dangerous substance or another substance with which a controlled dangerous substance was combined and that a layperson would reasonably believe to require medical assistance.

"Emergency medical response entity" means an organization, company, governmental entity, community-based program, or healthcare system that provides pre-hospital emergency medical services and assistance. "Emergency

medical response entity" includes, but is not limited to, a first aid, rescue and ambulance squad or other basic life support (BLS) ambulance provider; a mobile intensive care provider or other advanced life support (ALS) ambulance provider; an air medical service provider; or a fire-fighting company or organization, which squad, provider, company, or organization is qualified to send paid or volunteer emergency medical responders to the scene of an emergency.

"Emergency medical responder" means a person, other than a health care practitioner, who is employed on a paid or volunteer basis in the area of emergency response, including, but not limited to, an emergency medical technician, a mobile intensive care paramedic, or a fire fighter, acting in that person's professional capacity.

"Health care practitioner" means any individual who is licensed or certified to provide health care services pursuant to Title 45 of the Revised Statutes.

"Institution of higher education" means any public or private university, college, technical college or community college located in New Jersey.

"Law enforcement agency" means a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which employs law enforcement officers.

"Law enforcement officer" means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.

"Medical assistance" means professional medical services that are provided to a person experiencing a drug overdose by a health care practitioner, acting within the practitioner's scope of professional practice, including professional medical services that are mobilized through telephone contact with the 911 telephone emergency service.

"Occupational school" means a business, trade, technical, or other school approved by a nationally-recognized accrediting agency.

"Opioid antidote" means any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose. "Opioid antidote" includes, but is not limited to, naloxone hydrochloride, in any dosage amount, which is administered through nasal spray or any other FDA-approved means or methods.

"Prescriber" means a health care practitioner authorized by law to prescribe medications. "Prescriber" includes, but shall not be limited to, physicians, physician assistants, and advanced practice nurses.

"Public library" means a library that serves, free of charge, all residents of an area without discrimination and that receives its financial support, in whole or in part, from public funds.

"Public transportation hub" means a passenger station, terminal, or other facility, as designated by the Commissioner of Transportation, where public transportation services are made available.

"Recipient" means any individual who or entity that is prescribed or dispensed an opioid antidote in accordance with section 4 of P.L.2013, c.46 (C.24:6J-4) or section 1 of P.L.2017, c.88 (C.45:14-67.2). The term "recipient" shall include, but shall not be limited to, private citizens, emergency medical responders, emergency medical response entities, law enforcement officers, law enforcement agencies, recognized places of public access, employees and volunteers providing services at, through, or on behalf of a recognized place of public access, public and nonpublic schools, school nurses and other staff at a public or nonpublic school, sterile syringe access programs, and staff and employees of a sterile syringe access program. The term "recipient" shall not include a prescriber or a licensed pharmacist acting within a professional capacity.

"Recognized place of public access" means a public library, institution of higher education, occupational school, or public transportation hub.

"Sterile syringe access program" means a program established pursuant to the provisions of P.L.2006, c.99 (C.26:5C-25 et al.).

3. Section 4 of P.L.2013, c.46 (C.24:6J-4) is amended to read as follows:

C.24:6J-4 Immunity from liability for certain prescribers, practitioners, dispensers.

4. a. (1) A prescriber or other health care practitioner, as appropriate, may prescribe or dispense an opioid antidote directly or through a standing order to any person or entity. Any person or entity may be dispensed an opioid antidote pursuant to an individual prescription or a standing order issued by a prescriber, and any person or entity may be dispensed an opioid antidote by a pharmacy as provided in section 1 of P.L.2017, c.88 (C.45:14-67.2).

(2) Nothing in P.L.2013, c.46 (C.24:6J-1 et al.) shall be construed to restrict in any way the ability of any individual or entity to be dispensed an opioid antidote. The persons and entities to whom an opioid antidote may be prescribed and dispensed shall include private citizens, individuals who are dispensed an opioid antidote for administration or distribution to others in either a private or professional capacity, entities that are dispensed opioid antidotes on behalf of individuals who administer or distribute opioid antidotes to others in the course of their professional duties, and entities other

than a prescriber or pharmacist that maintain a stock of opioid antidotes for distribution or administration to others.

(3) (Deleted by amendment, P.L.2021, c.152).

(4) (Deleted by amendment, P.L.2021, c.152).

b. (1) A recipient in possession of an opioid antidote may administer the opioid antidote to any other person, without fee, in any situation in which the recipient reasonably believes the other person to be experiencing an opioid overdose.

(2) A recipient in possession of an opioid antidote may distribute the opioid antidote, without fee, to any other person who the recipient reasonably believes to be at risk of experiencing an opioid overdose or who the recipient reasonably believes will be in a position to administer the opioid antidote to a person experiencing an opioid overdose. A recipient distributing an opioid antidote to another person pursuant to this paragraph shall make reasonable efforts to furnish the person with the overdose prevention information described in section 5 of P.L.2013, c.46 (C.24:6J-5). The Commissioner of Health, or, if the commissioner is not a duly licensed physician, the Deputy Commissioner for Public Health Services, shall issue a standing order authorizing the distribution of opioid antidotes pursuant to this paragraph.

c. (1) A prescriber or other health care practitioner who prescribes or dispenses an opioid antidote in good faith, and in accordance with the provisions of this section, shall not, as a result of the practitioner's acts or omissions, be subject to any criminal or civil liability, or any professional disciplinary action under Title 45 of the Revised Statutes, for prescribing or dispensing the opioid antidote. A pharmacist that dispenses an opioid antidote in good faith, in accordance with the provisions of this section or section 1 of P.L.2017, c.88 (C.45:14-67.2), shall not, as a result of the pharmacist's acts or omissions, be subject to any criminal or civil liability, or any professional disciplinary action under Title 45 of the Revised Statutes, for dispensing the opioid antidote.

(2) A recipient who administers or distributes an opioid antidote in good faith as provided in subsection b. of this section shall not, as a result of any of the recipient's acts or omissions, be subject to any criminal or civil liability, or any professional disciplinary action, for administering or distributing the opioid antidote.

d. (Deleted by amendment, P.L.2021, c.152).

e. The immunity provided by this section for persons who are engaged in prescribing, dispensing, distributing, or administering an opioid antidote shall be coextensive with the immunity provided under sections 7 and 8 of

P.L.2013, c.46 (C.2C:35-30 and C.2C:35-31), to the extent that the provisions of those sections apply.

f. (Deleted by amendment, P.L.2021, c.152).

g. (Deleted by amendment, P.L.2021, c.152).

h. (Deleted by amendment, P.L.2021, c.152).

4. Section 5 of P.L.2013, c.46 (C.24:6J-5) is amended to read as follows:

C.24:6J-5 Overdose prevention information.

5. a. (1) A prescriber or other health care practitioner who prescribes or dispenses an opioid antidote in accordance with subsection a. of section 4 of P.L.2013, c.46 (C.24:6J-4), and a pharmacist who dispenses an opioid antidote pursuant to subsection a. of section 4 of P.L.2013, c.46 (C.24:6J-4) or section 1 of P.L.2017, c.88 (C.45:14-67.2), shall ensure that overdose prevention information is provided to the recipient. The overdose prevention information shall include, but need not be limited to: information on opioid overdose prevention and recognition; instructions on how to perform rescue breathing and resuscitation; information on opioid antidote dosage and instructions on opioid antidote administration; information describing the importance of calling the 911 emergency telephone service for assistance with an opioid overdose; and instructions for appropriate care of a person believed to be experiencing an opioid overdose after administration of the opioid antidote.

(2) (Deleted by amendment, P.L.2021, c.152).

b. (1) (Deleted by amendment, P.L.2021, c.152).

(2) The dissemination of overdose prevention information shall be documented by the prescribing or dispensing health care practitioner or dispensing pharmacist in the patient's medical record or another appropriate record, log or other similar recordkeeping location.

c. In order to facilitate the dissemination of overdose prevention information in accordance with this section, the Commissioner of Human Services, in consultation with the Department of Health and Statewide organizations representing physicians, advanced practice nurses, or physician assistants, and organizations operating community-based programs, sterile syringe access programs, or other programs which address medical or social issues related to substance use disorders, may develop training materials in video, electronic, or other appropriate formats, and disseminate these materials to health care practitioners. The Commissioner of Human Services may make the materials available to the general public through the Internet website of the Department of Human Services, with such modifications as may be appropriate to adapt the materials for use by persons

who are not health care practitioners. The commissioner shall ensure the materials are available in English, Spanish, and any other language that the commissioner determines is the first language of a significant number of people who are likely to be prescribed or dispensed an opioid antidote in accordance with subsection a. of section 4 of P.L.2013, c.46 (C.24:6J-4) or dispensed an opioid antidote pursuant to section 1 of P.L.2017, c.88 (C.45:14-67.2).

5. Section 1 of P.L.2017, c.285 (C.24:6J-5.1) is amended to read as follows:

C.24:6J-5.1 Provision of certain information to victims of opioid overdoses; definitions.

1. a. If an opioid antidote is administered by a health care practitioner or a first responder to a person believed to be experiencing a drug overdose, an opioid antidote and information concerning substance use disorder treatment programs and resources and sterile syringe access programs and resources, including information on the availability of opioid antidotes, shall be provided to the person as follows:

(1) If the person is admitted to a health care facility or receives treatment in the emergency department of a health care facility, a staff member designated by the health care facility, who may be a social worker, professional counselor, licensed or certified alcohol or drug counselor, or other appropriate professional, shall offer to furnish the person, or a family member or friend of the person in attendance during the patient's admission or emergency department visit, with an opioid antidote upon discharge, along with information regarding the cost of the opioid antidote, and shall provide the information concerning substance use disorder treatment programs and resources and sterile syringe access programs and resources to the person at any time after treatment for the drug overdose is complete, but prior to the person's discharge from the facility. The designated staff member shall document the provision of the information and the dispensing of an opioid antidote to the person or to a family member or friend of the person, if an opioid antidote is dispensed, in the person's medical record, and may, in collaboration with an appropriate health care practitioner, additionally develop an individualized substance use disorder treatment plan for the person.

(2) If the opioid antidote is administered by a first responder and the person believed to be experiencing an overdose is not subsequently transported to a health care facility, the first responder shall offer to furnish the person with an opioid antidote and shall provide the information concerning substance use disorder treatment programs and resources and sterile syringe access programs and resources to the person at the time

treatment for the drug overdose is complete. First responders shall maintain an adequate supply of opioid antidotes, in excess of the supply needed to meet the anticipated demand for opioid antidotes to treat individuals believed to be experiencing an opioid overdose, as is necessary to ensure people treated for a suspected opioid overdose can be furnished with an opioid antidote at the time treatment for the overdose is complete.

b. As used in this section:

"First responder" means a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any other individual who, in the course of that individual's employment, is dispatched to the scene of an emergency situation for the purpose of providing medical care or other assistance.

"Health care facility" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Opioid antidote" means any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose. "Opioid antidote" includes, but is not limited to, naloxone hydrochloride, in any dosage amount, which is administered through nasal spray or any other FDA-approved means or methods.

c. The Commissioner of Human Services shall develop informational materials concerning substance use disorder treatment programs and resources and sterile syringe access programs and resources, and information on the availability of opioid antidotes, for dissemination to health care practitioners and first responders to facilitate the provision of information to persons who are treated for a suspected overdose as provided in this section.

C.24:6J-7 Opioid antidotes, recognized place of public access.

6. a. To the extent funds are made available by the State for this purpose, a recognized place of public access shall obtain a supply of opioid antidotes pursuant to a standing order issued pursuant to section 4 of P.L.2013, c.46 (C.24:6J-4) or section 1 of P.L.2017, c.88 (C.45:14-67.2), which opioid antidotes shall be maintained in one or more secure and easily accessible locations for the purpose of administering the opioid antidote to any person who is reasonably believed to be experiencing an opioid overdose. Nothing in this section shall be construed to limit, restrict, or otherwise prohibit any other person or entity from obtaining, maintaining, distributing, or administering opioid antidotes as authorized under section 4 of P.L.2013, c.46 (C.24:6J-4) or any other provision of law.

b. A recognized place of public access that acquires and maintains a supply of opioid antidotes pursuant to subsection a. of this section shall ensure that at least one employee or volunteer who regularly provides services at, through, or on behalf of the recognized place of public access has received training on the standardized protocols for the administration of an opioid antidote to a person who is reasonably believed to be experiencing an opioid overdose, the requirements for which training shall be established by the Commissioner of Human Services. The training and protocols shall follow best practices for low-threshold community use of opioid antidotes in recognized places of public access, and shall include the overdose prevention information described in subsection a. of section 5 of P.L.2013, c.46 (C.24:6J-5). The commissioner may require by regulation that more than employee or volunteer at a recognized place of public access complete the training required pursuant to this subsection.

c. A recognized place of public access may, to the extent not otherwise prohibited by State or federal law, enter into an agreement with a community-based organization to distribute opioid antidotes on the premises of the recognized place of public access.

7. Section 2 of P.L.2018, c.106 (C.18A:40-12.24) is amended to read as follows:

C.18A:40-12.24 Development of school policy for emergency administration of opioid antidotes.

2. a. Each board of education, board of trustees of a charter school, and chief school administrator of a nonpublic school shall develop a policy, in accordance with guidelines established by the Department of Education pursuant to section 3 of this act, for the emergency administration of an opioid antidote to a student, staff member, or other person who is reasonably believed to be experiencing an opioid overdose. The policy shall:

(1) require each school that includes any of the grades nine through 12, and permit any other school, to obtain a standing order for opioid antidotes pursuant to section 4 of the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-4), and to maintain a supply of opioid antidotes under the standing order in a secure but unlocked and easily accessible location; and

(2) direct the school nurse, or a trained employee designated pursuant to subsection c. of this section, to administer an opioid antidote to any person whom the nurse or trained employee in good faith reasonably believes is experiencing an opioid overdose.

b. (1) Opioid antidotes shall be maintained by a school pursuant to paragraph (1) of subsection a. of this section in quantities and types deemed

adequate by the board of education, board of trustees of a charter school, or chief school administrator of a nonpublic school, in consultation with the Department of Education and the Department of Human Services.

(2) The opioid antidotes shall be accessible in the school during regular school hours and during school-sponsored functions that take place in the school or on school grounds adjacent to the school building. A board of education, board of trustees of a charter school, or chief school administrator of a nonpublic school may, in its discretion, make opioid antidotes accessible during school-sponsored functions that take place off school grounds.

c. (1) The school nurse shall have the primary responsibility for the emergency administration of an opioid antidote in accordance with a policy developed under this section. The board of education, board of trustees of a charter school, or chief school administrator of a nonpublic school shall designate additional employees of the school district, charter school, or nonpublic school who volunteer to administer an opioid antidote in the event that a person is reasonably believed to be experiencing an opioid overdose when the nurse is not physically present at the scene. Nothing in this section shall be construed to prohibit any other person from administering an opioid antidote to a person who is reasonably believed to be experiencing an opioid overdose, if the administration is consistent with the requirements of P.L.2013, c.46 (C.24:6J-1 et al.).

(2) In the event that a licensed athletic trainer volunteers to administer an opioid antidote pursuant to this act, it shall not constitute a violation of the "Athletic Training Licensure Act," P.L.1984, c.203 (C.45:9-37.35 et seq.).

d. A policy developed pursuant to this section shall require the transportation of a person reasonably believed to have experienced an overdose to a hospital emergency room by emergency services personnel after the administration of an opioid antidote, even if the person's symptoms appear to have resolved.

8. Section 3 of P.L.2018, c.106 (C.18A:40-12.25) is amended to read as follows:

C.18A:40-12.25 Guidelines for development of policy.

3. a. The Department of Education, in consultation with the Department of Human Services and appropriate medical experts, shall establish guidelines for the development of a policy by a school district, charter school, or nonpublic school for the emergency administration of opioid antidotes. Each board of education, board of trustees of a charter school, and chief

school administrator of a nonpublic school shall implement the guidelines in developing a policy pursuant to section 2 of this act.

b. The guidelines shall include a requirement that each school nurse, and each employee designated pursuant to subsection c. of section 2 of this act, receive training on standardized protocols for the administration of an opioid antidote to a person who is reasonably believed to be experiencing an opioid overdose. The training shall include the overdose prevention information described in subsection a. of section 5 of the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-5). The guidelines shall specify an appropriate entity or entities to provide the training, and a school nurse shall not be solely responsible to train the employees designated pursuant to subsection c. of section 2 of this act.

9. Section 4 of P.L.2006, c.99 (C.26:5C-28) is amended to read as follows:

C.26:5C-28 Establishment, authorization by municipality of certain programs.

4. a. In accordance with the provisions of section 3 of P.L.2006, c.99 (C.26:5C-27), a municipality may establish or authorize establishment of a sterile syringe access program that is approved by the commissioner to provide for the exchange of hypodermic syringes and needles.

(1) A municipality that establishes a sterile syringe access program, at a fixed location or through a mobile access component, may operate the program directly or contract with one or more of the following entities to operate the program: a hospital or other health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a federally qualified health center, a public health agency, a substance abuse treatment program, an AIDS service organization, or another nonprofit entity designated by the municipality. These entities shall also be authorized to contract directly with the commissioner in any municipality in which the governing body has authorized the operation of sterile syringe access programs by ordinance pursuant to paragraph (2) of this subsection. The municipality or entity under contract shall implement the sterile syringe access program in consultation with a federally qualified health center and the New Jersey Office on Minority and Multicultural Health in the Department of Health, and in a culturally competent manner.

(2) Pursuant to paragraph (2) of subsection a. of section 3 of P.L.2006, c.99 (C.26:5C-27), a municipality whose governing body has authorized the operation of sterile syringe access programs within the municipality may require within the authorizing ordinance that an entity as described in paragraph (1) of this subsection obtain approval from the municipality, in a manner prescribed by the authorizing ordinance, to operate a sterile syringe

access program prior to obtaining approval from the commissioner to operate such a program, or may permit the entity to obtain approval to operate such a program by application directly to the commissioner without obtaining prior approval from the municipality.

(3) Two or more municipalities may jointly establish or authorize establishment of a sterile syringe access program that operates within those municipalities pursuant to adoption of an ordinance by each participating municipality pursuant to this section.

b. A sterile syringe access program shall comply with the following requirements:

(1) Sterile syringes and needles shall be provided at no cost to consumers 18 years of age and older;

(2) Program staff shall be trained and regularly supervised in: harm reduction; substance use disorder, medical and social service referrals; and infection control procedures, including universal precautions and needle stick injury protocol; and programs shall maintain records of staff and volunteer training and of hepatitis C and tuberculosis screening provided to volunteers and staff;

(3) The program shall offer information about HIV, hepatitis C and other bloodborne pathogens and prevention materials at no cost to consumers, and shall seek to educate all consumers about safe and proper disposal of needles and syringes;

(4) The program shall provide information and referrals to consumers, including HIV testing options, access to medication-assisted substance use disorder treatment programs and other substance use disorder treatment programs, and available health and social service options relevant to the consumer's needs. The program shall encourage consumers to receive an HIV test, and shall, when appropriate, develop an individualized substance use disorder treatment plan for each participating consumer;

(5) The program shall screen out consumers under 18 years of age from access to syringes and needles, and shall refer them to substance use disorder treatment and other appropriate programs for youth;

(6) The program shall develop a plan for the handling and disposal of used syringes and needles in accordance with requirements set forth at N.J.A.C.7:26-3A.1 et seq. for regulated medical waste disposal pursuant to the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.), and shall also develop and maintain protocols for post-exposure treatment;

(7) (a) The program may obtain a standing order, pursuant to the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et seq.), authorizing

program staff to carry and distribute naloxone hydrochloride or another opioid antidote to consumers, to the family members and friends of consumers, and to any member of the general public;

(b) The program shall provide overdose prevention information to consumers, the family members and friends of consumers, and members of the general public, in accordance with the provisions of section 5 of the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-5);

(8) The program shall maintain the confidentiality of consumers by the use of confidential identifiers, which shall consist of the first two letters of the first name of the consumer's mother and the two-digit day of birth and two-digit year of birth of the consumer, or by the use of such other uniform Statewide mechanism as may be approved by the commissioner for this purpose;

(9) The program shall provide a uniform identification card that has been approved by the commissioner to consumers and to staff and volunteers involved in transporting, exchanging or possessing syringes and needles, or shall provide for such other uniform Statewide means of identification as may be approved by the commissioner for this purpose;

(10) The program shall provide consumers at the time of enrollment with a schedule of program operation hours and locations, in addition to information about prevention and harm reduction and substance use disorder treatment services; and

(11) The program shall establish and implement accurate data collection methods and procedures as required by the commissioner for the purpose of evaluating the sterile syringe access programs, including the monitoring and evaluation on a quarterly basis of:

(a) sterile syringe access program participation rates, including the number of consumers who enter substance use disorder treatment programs and the status of their treatment;

(b) the effectiveness of the sterile syringe access programs in meeting their objectives, including, but not limited to, return rates of syringes and needles distributed to consumers and the impact of the sterile syringe access programs on intravenous drug use; and

(c) the number and type of referrals provided by the sterile syringe access programs and the specific actions taken by the sterile syringe access programs on behalf of each consumer.

c. A municipality may terminate a sterile syringe access program established or authorized pursuant to this act, which is operating within that municipality, if its governing body approves such an action by ordinance, in which case the municipality shall notify the commissioner of its action in a manner prescribed by regulation of the commissioner.

10. Section 1 of P.L.2017, c.88 (C.45:14-67.2) is amended to read as follows:

C. 45:14-67.2 Dispensing of opioid antidotes by pharmacist; definitions.

1. a. Notwithstanding any other law or regulation to the contrary, a pharmacist may dispense an opioid antidote to any person or entity, regardless of whether the person or entity holds an individual prescription for the opioid antidote, pursuant to a standing order issued by a prescriber or pursuant to the standing order issued pursuant to subsection b. of this section. A pharmacist who dispenses an opioid antidote pursuant to this section shall comply with the provisions of the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et al.).

b. The Commissioner of Health, or, if the commissioner is not a duly licensed physician, the Deputy Commissioner for Public Health Services, shall issue a standing order authorizing all licensed pharmacists in the State to dispense an opioid antidote to any individual or entity, regardless of whether the individual or entity holds an individual prescription for the opioid antidote. The Commissioner of Health shall provide a copy of the standing order to the Board of Pharmacy, which shall post a copy of the standing order on the board's Internet website and transmit a copy of the standing order to all licensed pharmacists in such a manner as the board deems appropriate.

c. As used in this section:

"Opioid antidote" means naloxone hydrochloride or any other drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

"Prescriber" means the same as that term is defined in section 3 of P.L.2013, c.46 (C.24:6J-3).

11. This act shall take effect 60 days after the date of enactment, but the Commissioner of Health, the Commissioner of Human Services, and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may each take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved July 2, 2021.

CHAPTER 153

AN ACT concerning mobile intensive care paramedics and buprenorphine and supplementing Title 26 of the Revised Statutes.

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

C.26:2K-71 Definitions relative to mobile intensive care paramedics.

1. a. As used in this section:

"Mobile intensive care paramedic" and "mobile intensive care unit" shall have the same meaning as provided in section 1 of P.L.1984, c.146 (C.26:2K-7).

"Opioid antidote" shall have the same meaning as provided in section 1 of P.L.2017, c.116 (C.26:2K-66).

b. Subject to the requirements of federal law, a mobile intensive care paramedic in this State who has responded to an emergency as a member of a dispatched mobile intensive care unit may administer buprenorphine, under the medical direction of a licensed, supervising physician, to an individual following the emergency administration of an opioid antidote to that individual provided that the mobile intensive care paramedic administering the buprenorphine:

(1) is providing emergency medical services through a program that is registered with the United States Attorney General pursuant to subsection (j) of 21 U.S.C. s.823;

(2) administers the buprenorphine consistent with all applicable requirements of federal law; and

(3) has completed supervised comprehensive training and competency assessments within a mobile intensive care unit regarding which specific medical conditions necessitate the administration of buprenorphine, buprenorphine dosage requirements, and required medical documentation following the administration of buprenorphine.

2. The Commissioner of Health may adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the provisions of this act.

3. This act shall take effect immediately.

Approved July 2, 2021.

CHAPTER 154

AN ACT concerning child protective services and amending and supplementing various parts of the statutory law.

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

1. The Legislature finds and declares that:

a. Foster care is intended by existing state and federal statute to be temporary.

b. Kinship care is the preferred resource for children who must be removed from their birth parents because use of kinship care maintains children's connections with their families. There are many benefits to placing children with relatives or other kinship caregivers, such as increased stability and safety as well as the ability to maintain family connections and cultural traditions.

c. Federal law permits kinship legal guardianship arrangements to be used when the child has been in the care of a relative for a period of six months.

d. Parental rights must be protected and preserved whenever possible.

e. Children are capable of forming healthy attachments with multiple caring adults throughout the course of their childhood, including with birth parents, temporary resource parents, extended family members, and other caring adults.

f. The existence of a healthy attachment between a child and the child's resource family parent does not in and of itself preclude the child from maintaining, forming or repairing relationships with the child's parent or caregiver of origin.

g. It is therefore necessary for the Legislature to amend current laws to strengthen support for kinship caregivers, and ensure focus on parents' fitness and the benefits of preserving the birth parent-child relationship, as opposed to considering the impact of severing the child's relationship with the resource family parents.

2. Section 2 of P.L.2001, c.250 (C.3B:12A-2) is amended to read as follows:

C.3B:12A-2 Definitions relative to kinship legal guardianship.

As used in sections 1 through 6 of P.L.2001, c.250 (C.3B:12A-1 et seq.):

"Caregiver" means a person over 18 years of age, other than a child's parent, who has a kinship relationship with the child and has been providing care and support for the child, while the child has been residing in the caregiver's home, for either the last six consecutive months or nine of the last 15 months. "Caregiver" includes a resource family parent as defined in section 1 of P.L.1962, c.136 (C.30:4C-26.4).

"Child" means a person under 18 years of age, except as otherwise provided in P.L.2001, c.250 (C.3B:12A-1 et al.).

"Commissioner" means the Commissioner of Children and Families.

"Court" means the Superior Court, Chancery Division, Family Part.

"Department" means the Department of Children and Families.

"Division" means the Division of Child Protection and Permanency in the Department of Children and Families.

"Family friend" means a person who is connected to a child or the child's parent by an established positive psychological or emotional relationship that is not a biological or legal relationship.

"Home review" means the basic review of the information provided by the petitioner and a visit to the petitioner's home where the child will continue to reside, in accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.) and pursuant to regulations adopted by the commissioner.

"Kinship caregiver assessment" means a written report prepared in accordance with the provisions of P.L.2001, c.250 (C.3B:12A-1 et al.) and pursuant to regulations adopted by the commissioner.

"Kinship legal guardian" means a caregiver who is willing to assume care of a child due to parental incapacity, with the intent to raise the child to adulthood, and who is appointed the kinship legal guardian of the child by the court pursuant to P.L.2001, c.250 (C.3B:12A-1 et al.). A kinship legal guardian shall be responsible for the care and protection of the child and for providing for the child's health, education and maintenance.

"Kinship relationship" means a family friend or a person with a biological or legal relationship with the child.

"Parental incapacity" means incapacity of such a serious nature as to demonstrate that the parent is unable, unavailable, or unwilling to perform the regular and expected functions of care and support of the child.

3. Section 5 of P.L.2001, c.250 (C.3B:12A-5) is amended to read as follows:

C.3B:12A-5 Appointment as kinship legal guardian; contents of petition.

5. a. Upon petition of a caregiver, the court may appoint the caregiver as kinship legal guardian of a child residing in the caregiver's home pursuant to the provisions of P.L. 2001, c. 250 (C. 3B:12A-1 et al.).

b. A petition for the appointment of a kinship legal guardian shall include a kinship caregiver assessment, which shall contain:

(1) the full name and address of the person seeking to become the kinship legal guardian;

(2) the circumstances of the kinship relationship;

(3) the whereabouts of the child's parents, if known;

(4) the nature of the parents' incapacitation, if known;

(5) the wishes of the parents, if known;

(6) the ability of the kinship caregiver family to assume permanent care of the child;

(7) the child's property and assets, if known;

(8) the wishes of the child, if appropriate;

(9) any current involvement of a child with the division if the child has an open division case and is actively receiving services;

(10) certification from the caregiver that the caregiver has been providing care and support for the child, while the child has been residing in the caregiver's home, for at least the last six consecutive months or nine of the last 15 months;

(11) the results from a criminal history record background check and a domestic violence central registry check of the caregiver and any adult residing in the caregiver's household conducted pursuant to section 9 of P.L. 2001, c. 250 (C. 30:4C-86);

(12) the results from a child abuse record check arranged for and coordinated by the division pursuant to section 9 of P.L. 2001, c. 250 (C. 30:4C-86); and

(13) the results of the caregiver's home review.

4. Section 6 of P.L.2001, c.250 (C.3B:12A-6) is amended to read as follows:

C.3B:12A-6 Considerations for appointment as kinship legal guardian.

6. a. In making its determination about whether to appoint the caregiver as kinship legal guardian, the court shall consider:

(1) if proper notice was provided to the child's parents;

(2) the best interests of the child;

(3) the kinship caregiver assessment;

(4) in cases in which the division is involved with the child as provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-85), the recommendation of the division, including any parenting time or visitation restrictions;

(5) the potential kinship legal guardian's ability to provide a safe and permanent home for the child;

(6) the wishes of the child's parents, if known to the court;

(7) the wishes of the child if the child is 12 years of age or older, unless unique circumstances exist that make the child's age irrelevant;

(8) the suitability of the kinship caregiver and the caregiver's family to raise the child;

(9) the ability of the kinship caregiver to assume full legal responsibility for the child;

(10) the commitment of the kinship caregiver and the caregiver's family to raise the child to adulthood;

(11) the results from the child abuse record check conducted pursuant to section 9 of P.L.2001, c.250 (C.30:4C-86); and

(12) the results from the criminal history record background check and domestic violence check conducted pursuant to section 9 of P.L.2001, c.250 (C.30:4C-86). In any case in which the caregiver petitioning for kinship legal guardianship, or any adult residing in the prospective caregiver's home, has a record of criminal history or a record of being subjected to a final domestic violence restraining order under P.L.1991, c.261 (C.2C:25-17 et seq.), the court shall review the record with respect to the type and date of the criminal offense or the provisions and date of the final domestic violence restraining order and make a determination as to the suitability of the person to become a kinship legal guardian. For the purposes of this paragraph, with respect to criminal history, the court shall consider convictions for offenses specified in subsections c., d. and e. of section 1 of P.L.1985, c.396 (C.30:4C-26.8).

b. The court shall not award kinship legal guardianship of the child unless proper notice was served upon the parents of the child and any other party to whom the court has awarded custody or parenting time for that child, in accordance with the Rules of Court.

c. The court shall not award kinship legal guardianship of the child solely because of parental incapacity.

d. The court shall appoint the caregiver as a kinship legal guardian if, based upon clear and convincing evidence, the court finds that:

(1) each parent's incapacity is of such a serious nature as to demonstrate that the parents are unable, unavailable or unwilling to perform the regular and expected functions of care and support of the child;

(2) the parents' inability to perform those functions is unlikely to change in the foreseeable future;

(3) in cases in which the division is involved with the child as provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-85), the division exercised reasonable efforts to reunify the child with the birth parents and these reunification efforts have proven unsuccessful or unnecessary; (Deleted by amendment, P.L.2021, c.154) and

(4) awarding kinship legal guardianship is in the child's best interests.

e. The court order appointing the kinship legal guardian shall specify, as appropriate, that:

(1) a kinship legal guardian shall have the same rights, responsibilities and authority relating to the child as a birth parent, including, but not limited to: making decisions concerning the child's care and well-being; consenting to routine and emergency medical and mental health needs; arranging and consenting to educational plans for the child; applying for financial assistance and social services for which the child is eligible; applying for a motor vehicle operator's license; applying for admission to college; responsibility for activities necessary to ensure the child's safety, permanency and well-being; and ensuring the maintenance and protection of the child; except that a kinship legal guardian may not consent to the adoption of the child or a name change for the child;

(2) the birth parent of the child retains the authority to consent to the adoption of the child or a name change for the child;

(3) the birth parent of the child retains the obligation to pay child support;

(4) the birth parent of the child retains the right to visitation or parenting time with the child, as determined by the court;

(5) the appointment of a kinship legal guardian does not limit or terminate any rights or benefits derived from the child's parents, including, but not limited to, those relating to inheritance or eligibility for benefits or insurance; and

(6) kinship legal guardianship terminates when the child reaches 18 years of age or when the child is no longer continuously enrolled in a secondary education program, whichever event occurs later, or when kinship legal guardianship is otherwise terminated.

f. An order or judgment awarding kinship legal guardianship may be vacated by the court prior to the child's 18th birthday if the court finds that the kinship legal guardianship is no longer in the best interests of the child or, in cases where there is an application to return the child to the parent, based upon clear and convincing evidence, the court finds that the parental incapacity or inability to care for the child that led to the original award of kinship legal guardianship is no longer the case and termination of kinship legal guardianship is in the child's best interests.

In cases in which the division was involved, when determining whether a child should be returned to a parent, the court may refer a parent for an assessment prepared by the division, in accordance with regulations adopted by the commissioner.

g. An order or judgment awarding kinship legal guardianship may be vacated by the court if, based upon clear and convincing evidence, the court finds that the guardian failed or is unable, unavailable or unwilling to provide proper care and custody of the child, or that the guardianship is no longer in the child's best interests.

5. Section 10 of P.L.1974, c.119 (C.9:6-8.30) is amended to read as follows:

C.9:6-8.30 Action by the division upon emergency removal.

10. a. The division, when informed that there has been an emergency removal of a child from his home without court order, shall make every reasonable effort to communicate immediately with the child's parent or guardian that such emergency removal has been made and the location of the facility to which the child has been taken, and advise the parent or guardian to appear in the appropriate Superior Court, Chancery Division, Family Part within two court days.

The division shall make a reasonable effort, at least 24 hours prior to the court hearing, to:

notify the parent or guardian of the time to appear in court; and

inform the parent or guardian of his right to obtain counsel, and how to obtain counsel through the Office of the Public Defender if the parent or guardian is indigent.

The division shall also advise the party making the removal to appear. If the removed child is returned to his home prior to the court hearing, there shall be no court hearing to determine the sufficiency of cause for the child's removal, unless the child's parent or guardian makes application to the court for review.

The division shall make reasonable efforts to place the child with a suitable relative or person who has a kinship relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-2) prior to placing the child with another suitable person.

For the purposes of this section, "facility" means a hospital, shelter or child care institution in which a child may be placed for temporary care, but does not include a resource family home.

b. The division shall cause a complaint to be filed under this act within two court days after such removal takes place.

c. Whenever a child has been removed pursuant to section 7 or 9 of P.L.1974, c.119 (C.9:6-8.27 or 9:6-8.29), the division shall arrange for immediate medical screening of the child and shall have legal authority to consent to such screening. If necessary to safeguard the child's health or life, the

division also is authorized to arrange for and consent to medical care or treatment of the child. Consent by the division pursuant to this subsection shall be deemed legal and valid for all purposes with respect to any person, hospital, or other health care facility screening, examining or providing care or treatment to a child in accordance with and in reliance upon such consent. Medical reports resulting from such screening, examination or care or treatment shall be released to the division for the purpose of aiding in the determination of whether the child has been abused or neglected. Any person or health care facility acting in good faith in the screening of, examination of or provision of care and treatment to a child or in the release of medical records shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

6. Section 11 P.L.1974, c.119 (C.9:6-8.31) is amended to read as follows:

C.9:6-8.31 Preliminary orders after filing of complaint.

11. a. In any case where the child has been removed without court order, except where action has been taken pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.) the Superior Court, Chancery Division, Family Part shall hold a hearing on the next court day, whereby the safety of the child shall be of paramount concern, to determine whether the child's interests require protection pending a final order of disposition. In any other case under P.L.1974, c.119 (C.9:6-8.21 et seq.), any person who may originate a proceeding may apply for, or the court, on its own motion, may order a hearing at any time after the complaint is filed to determine, with the safety of the child of paramount concern, whether the child's interests require protection pending a final order of disposition.

b. Upon such hearing, if the court finds that continued removal is necessary to avoid an ongoing risk to the child's life, safety, or health, it shall affirm the removal of the child to an appropriate place or place him in the custody of a suitable person.

The court shall also first consider placement of the child with a suitable relative or person who has a kinship relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-2), when considering if the child should be placed in the custody of a suitable person.

If the court determines that removal of the child by a physician, police officer, designated employee of the Probation Division, or designated employee of the Division of Child Protection and Permanency was necessary due to imminent danger to the child's life, safety, or health, the court shall find that the Division of Child Protection and Permanency was not required

to provide reasonable efforts to prevent placement of the child in accordance with section 24 of P.L.1999, c.53 (C.30:4C-11.2).

c. Upon such hearing the court may, for good cause shown, issue a preliminary order of protection which may contain any of the provisions authorized on the making of an order of protection under section 35 of P.L.1974, c.119 (C.9:6-8.55).

d. Upon such hearing, the court may, for good cause shown, release the child to the custody of his parent or guardian from whose custody or care the child was removed, pending a final order of disposition, in accord with section 33 of P.L.1974, c.119 (C.9:6-8.53).

e. Upon such hearing, the court may authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

f. If the court grants or denies a preliminary order requested pursuant to this section, it shall state the grounds for such decision.

g. In all cases involving abuse or neglect the court shall order an examination of the child by a physician appointed or designated for the purpose by the division. As part of such examination, the physician shall arrange to have color photographs taken as soon as practical of any areas of trauma visible on such child and may if indicated, arrange to have a radiological examination performed on the child. The physician, on the completion of such examination, shall forward the results thereof together with the color photographs to the court ordering such examination.

7. Section 34 of P.L.1974, c. 119 (C.9:6-8.54) is amended to read as follows:

C.9:6-8.54 Placement of child.

34. a. For the purpose of section 31 of P.L.1974, c.119 (C.9:6-8.51), the court may place the child in the custody of a relative or other suitable person or the division for the placement of a child after a finding that the division has made reasonable efforts to prevent placement or that reasonable efforts to prevent placement were not required in accordance with section 24 of P.L.1999, c.53 (C.30:4C-11.2). The court shall also first consider placement of the child with a suitable relative or person who has a kinship relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-2), when considering if the child should be placed in the custody of another suitable person.

b. (1) Placements under this section may be for an initial period of 12 months and the court, in its discretion, may at the expiration of that period, upon a hearing make successive extensions for additional periods of up to one

year each. The court on its own motion may, at the conclusion of any period of placement, hold a hearing concerning the need for continuing the placement.

(2) The court shall conduct a permanency hearing for the child no later than 30 days after placement in cases in which the court has determined that reasonable efforts to reunify the child with the parent or guardian are not required pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3), or no later than 12 months after placement in cases in which the court has determined that efforts to reunify the child with the parent or guardian are required. The hearing shall include, but not necessarily be limited to, consideration and evaluation of information provided by the division and other interested parties regarding such matters as those listed in subsection c. of section 50 of P.L.1999, c.53 (C.30:4C-61.2).

(3) The court shall review the permanency plan for the child periodically, as deemed appropriate by the court, to ensure that the permanency plan is achieved.

c. No placement may be made or continued under this section beyond the child's eighteenth birthday without his consent.

d. If the parent or person legally responsible for the care of any such child or with whom such child resides receives public assistance and care, any portion of which is attributable to such child, a copy of the order of the court providing for the placement of such child from his home shall be furnished to the appropriate county welfare board, which shall reduce the public assistance and care furnished to such parent or other person by the amount attributable to such child.

8. Section 6 of P.L.1991, c.275 (C.30:4C-12.1) is amended to read as follows:

C.30:4C-12.1 Search for relatives; assessment of abilities.

6. a. In any case in which the Department of Children and Families accepts a child in its care or custody, including placement, the department shall consider placement of the child with a suitable relative or person who has a kinship relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-2). The department shall initiate a search for relatives or persons with a kinship relationship with the child who may be willing and able to provide the care and support required by the child. The search shall be initiated within 30 days of the department's acceptance of the child in its care or custody. The search will be completed when all sources contacted have either responded to the inquiry or failed to respond within 45 days. The department shall complete an assessment of each interested relative's or

person's ability to provide the care and support, including placement, required by the child.

b. If the department determines that the relative or person who has a kinship relationship with the child is unwilling or unable to assume the care of the child, the department shall not be required to re-evaluate the relative. The department shall inform the relative or person in writing of:

(1) the reasons for the department's determination;

(2) the responsibility of the relative or person to inform the department if there is a change in the circumstances upon which the determination was made;

(3) the possibility that termination of parental rights may occur if the child remains in resource family care for more than six months; and

(4) the right to seek review by the department of such determination.

c. The department may decide to pursue the termination of parental rights if the department determines that termination of parental rights is in the child's best interests.

9. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to read as follows:

C.30:4C-15.1 Termination of parental rights, standards.

7. a. The division shall initiate a petition to terminate parental rights on the grounds of the "best interests of the child" pursuant to subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) The child's safety, health, or development has been or will continue to be endangered by the parental relationship;

(2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm;

(3) The division has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

(4) Termination of parental rights will not do more harm than good.

b. The division shall initiate a petition to terminate parental rights on the ground that the "parent has abandoned the child" pursuant to subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) a court finds that for a period of six or more months:

(a) the parent, although able to have contact, has had no contact with the child, the child's resource family parent or the division; and

(b) the parent's whereabouts are unknown, notwithstanding the division's reasonable efforts to locate the parent; or

(2) where the identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification, the division may immediately file for termination of parental rights upon the completion of the law enforcement investigation; or

(3) where the parent voluntarily delivered the child to and left the child with an adult employee, or voluntarily arranged for another person to deliver the child to and leave the child with an adult employee, at a State, county or municipal police station, a fire station of a municipal, county, fire district, or volunteer fire department, the premises of a public or private ambulance, first aid, or rescue squad; or voluntarily delivered the child to and left the child at an emergency department of a licensed general hospital in this State when the child is or appears to be no more than 30 days old, without expressing an intent to return for the child, as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7), the division shall file for termination of parental rights no later than 21 days after the day the division assumed care, custody and control of the child.

c. As used in this section and in section 15 of P.L.1951, c.138 (C.30:4C-15) "reasonable efforts" mean attempts by an agency authorized by the division to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, including, but not limited to:

(1) consultation and cooperation with the parent in developing a plan for appropriate services;

(2) providing services that have been agreed upon, to the family, in order to further the goal of family reunification;

(3) informing the parent at appropriate intervals of the child's progress, development, and health; and

(4) facilitating appropriate visitation.

d. The division shall not be required to provide "reasonable efforts" as defined in subsection c. of this section prior to filing a petition for the termination of parental rights if an exception to the requirement to provide reasonable efforts to reunify the family has been established pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

10. This act shall take effect immediately.

Approved July 2, 2021.

CHAPTER 155

AN ACT concerning opioid antidotes and amending P.L.2006, c.84.

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

1. Section 1 of P.L.2006, c.84 (C.45:14-81) is amended to read as follows:

C.45:14-81 "New Jersey Prescription Drug Retail Price Registry."

1. a. There is established the "New Jersey Prescription Drug Retail Price Registry" in the Division of Consumer Affairs in the Department of Law and Public Safety for the purpose of making retail price information for the 150 most frequently prescribed prescription drugs in the State and opioid antidotes readily available to consumers.

(1) For the purpose of establishing the registry, the Director of the Division of Consumer Affairs, in consultation with the Commissioners of Human Services and Health and Senior Services, shall obtain drug retail price information for these prescription drugs, which indicates the actual price to be paid to a pharmacy by a retail purchaser for a listed drug at the listed dosage, from data collected by the Division of Medical Assistance and Health Services in the Department of Human Services or other available sources that includes the charge for the cost of the medication and the dispensing fee, and does not exceed the usual and customary or posted or advertised charge by the pharmacy. The establishment of the registry shall be subject to any federal approval that may be required to effectuate the purposes of this act and shall conform with any requirements of State or federal law regarding the confidentiality and use of the information contained therein.

(2) The registry shall include the information obtained by the director pursuant to paragraph (1) of this subsection, and shall be updated by the division at least weekly to reflect the most current information obtained by the director.

(3) The registry shall be organized by the director in a format that is conducive to review and comparison by consumers of prescription drug retail prices charged by pharmacies in each zip code within the State, and shall include the name and address of each pharmacy.

b. The division shall make available electronically on its Internet website in English and Spanish the information contained in the registry, and shall provide the information to consumers upon request by means of a toll-free telephone service operated by the division.

The information made available on the Internet website shall:

(1) be organized to meet the requirements of paragraph (3) of subsection a. of this section and be designed so that the consumer may download and print the displayed information;

(2) include Internet web links to other governmental information resources that provide information relating to the regulation of prescription drugs and State and federal health care coverage and pharmaceutical assistance programs;

(3) include an advisory statement by the division alerting consumers of the need to tell their health care practitioner and pharmacist about all the medications they may be taking and to ask them how to avoid harmful interactions between those drugs, if any; and

(4) contain clearly understandable language that is designed to assist consumers in understanding the content of, and how to access, the information made available on the website pursuant to this section.

c. The director may require each pharmacy practice site in the State to furnish to the director such information as the director deems necessary to effectuate the provisions of this section.

d. The division may contract with a public or private entity for the purpose of developing, administering, and maintaining the registry established pursuant to this section. The contract shall specify the duties and responsibilities of the entity with respect to the development, administration, and maintenance of the registry. The division shall monitor the work of the entity to ensure that the registry is developed, administered, and maintained pursuant to the requirements of this act.

2. Section 2 of P.L.2006, c.84 (C.45:14-82) is amended to read as follows:

C.45:14-82 Annual list of 150 most frequently prescribed prescription drugs distributed to pharmacies; drug retail price list maintained by pharmacy.

2. a. The Director of the Division of Consumer Affairs shall prepare at least annually, and shall make available to each pharmacy practice site in the State without charge, a list of the 150 most frequently prescribed prescription drugs that includes the usual dosages prescribed for each drug and a list of opioid antidotes.

b. Each pharmacy practice site in the State shall maintain a prescription drug retail price list, which contains the names of the drugs, including opioid antidotes, on the list provided by the division pursuant to subsection a. of this section and the retail price for each drug on the list charged at that pharmacy practice site, including the date of the update of the retail price list, and shall make the prescription drug retail price list available to customers upon request.

(1) The prescription drug retail price list shall include an advisory statement prepared by the division alerting consumers of the need to tell their health care practitioner and pharmacist about all the medications that they may be taking and to ask them how to avoid harmful interactions between those drugs, if any.

(2) The pharmacy practice site shall post a sign that notifies customers of the availability of the drug retail price list in a conspicuous location that is: at or adjacent to the place where prescriptions are presented for compounding and dispensing; in the waiting area for customers; or in the area where prescribed drugs are delivered.

c. The provisions of this section shall not be construed to prevent a pharmacy practice site from changing or charging the current retail price at any time, provided that the listed price is updated at least weekly to reflect the new retail price.

d. As used in this act, "opioid antidote" means any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration for the treatment of an opioid overdose, and shall include, but not be limited to, naloxone hydrochloride in any dosage amount, which is administered through nasal spray or any other means or methods approved by the United States Food and Drug Administration.

3. This act shall take effect immediately.

Approved July 2, 2021.

CHAPTER 156

AN ACT concerning student participation in health surveys and supplementing chapter 36 of Title 18A of the New Jersey Statutes.

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

C.18A:36-34.1 Voluntary survey for students with prior parental, guardian written notification.

1. a. Notwithstanding section 1 of P.L.2001, c.364 (C.18A:36-34), or any other law, rule, or regulation to the contrary, a school district that sends prior written notification to a parent or legal guardian of a student may administer

an anonymous, voluntary survey, assessment, analysis or evaluation to the student which reveals information concerning any of the following issues:

(1) use of alcohol, tobacco, drugs, and vaping;

(2) sexual behavior and attitudes;

(3) behaviors that may contribute to intentional or unintentional injuries or violence; or

(4) physical activity and nutrition-related behaviors.

b. Written notification provided by a school district to the parent or legal guardian of a student shall be delivered to the parent or legal guardian by regular mail, electronic mail, or a written acknowledgement form to be delivered by the student at least two weeks prior to administration of the survey, assessment, analysis or evaluation. Written notification shall contain, at minimum, the following information:

(1) a description of the survey, assessment, analysis, or evaluation;

(2) the purpose for which the survey, assessment, analysis, or evaluation is needed;

(3) the entities and persons that will have access to the information generated by the survey, assessment, analysis, or evaluation;

(4) specific instruction as to when and where the survey, assessment, analysis, or evaluation will be available for parental or legal guardian review prior to its administration;

(5) the method by which the parent or legal guardian can deny permission to administer the survey, assessment, analysis, or evaluation to the student; a form specifically providing for such denial shall be included with this notice;

(6) the names and contact information of persons to whom questions can be directed; and

(7) a statement advising that failure to respond indicates approval of participation in the survey, assessment, analysis, or evaluation.

c. Information obtained through a survey, assessment, analysis or evaluation administered to a student in accordance with this section shall be submitted to the Department of Education and the Department of Health. Information may be used to develop public health initiatives and prevention programs. Information shall not be used for marketing or other commercial purposes that are not related to student health.

d. A school district that violates the provisions of this section shall be subject to such monetary penalties as determined by the commissioner.

2. This act shall take effect on the 180th day after the date of enactment, except the Commissioner of Education may take any anticipatory

administrative action in advance as shall be necessary for the implementation of this act.

Approved July 2, 2021.

CHAPTER 157

AN ACT concerning health benefits coverage of opioid antidotes and supplementing various parts of the statutory law.

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

C.26:2S-38 Prescription drug benefit carrier contracts, opioid antidote coverage.

1. a. A carrier shall ensure that every contract to provide prescription drug benefits, or to authorize the purchase of a contract to provide prescription drug benefits, shall provide coverage for an opioid antidote to covered persons without the imposition of any prior authorization or other utilization management requirements, provided that the drug is:

(1) prescribed or administered to the covered person by a licensed medical practitioner who is authorized to prescribe or administer that treatment pursuant to State and federal law; or

(2) dispensed to the covered person by a licensed pharmacist under a standing order to dispense an opioid antidote pursuant to section 1 of P.L.2017, c.88 (C.45:14-67.2).

b. The provisions of this section shall not be construed to limit the coverage of an opioid antidote only when administered by a medical practitioner.

c. As used in this section:

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State.

"Opioid antidote" means naloxone hydrochloride, or any other similarly acting drug approved by the United States Food and Drug Administration for self-administration for the treatment of an opioid overdose.

C.30:4D-6q Medicaid, NJ FamilyCare, opioid antidote coverage.

2. a. The Division of Medical Assistance and Health Services in the Department of Human Services shall provide coverage for an opioid antidote

under the Medicaid program and the NJ FamilyCare program without the imposition of any prior authorization or other utilization management requirements, provided that the drug is:

(1) prescribed or administered to an enrollee by a licensed medical practitioner who is authorized to prescribe or administer that treatment pursuant to State and federal law; or

(2) dispensed to an enrollee by a licensed pharmacist under a standing order to dispense an opioid antidote pursuant to section 1 of P.L.2017, c.88 (C.45:14-67.2).

b. The provisions of this section shall not be construed to limit the coverage of an opioid antidote only when administered by a medical practitioner.

c. The division shall require each managed care organization contracted with the division to provide pharmacy benefits to Medicaid and NJ FamilyCare enrollees to comply with the provisions of this section.

d. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this section and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

e. As used in this section:

"Medicaid program" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Opioid antidote" means naloxone hydrochloride, or any other similarly acting drug approved by the United States Food and Drug Administration for self-administration for the treatment of an opioid overdose.

"NJ FamilyCare program" means the program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

C.52:14-17.29ff State Health Benefits Program, opioid antidote coverage.

3. a. Notwithstanding any law or regulation to the contrary, the State Health Benefits Commission and the School Employees' Health Benefits Commission shall ensure that every contract under the State Health Benefits Program shall provide coverage for an opioid antidote to eligible members of the State Health Benefits Program and the School Employees' Health Benefits Program. The coverage shall be provided without the imposition of any prior authorization or other utilization management requirements, provided that the treatment is:

(1) prescribed or administered to the eligible member by a licensed medical practitioner who is authorized to prescribe or administer that treatment pursuant to State and federal law; or

(2) dispensed to the eligible member by a licensed pharmacist under a standing order to dispense an opioid antidote pursuant to section 1 of P.L.2017, c.88 (C.45:14-67.2).

b. The provisions of this section shall not be construed to limit the coverage of an opioid antidote only when administered by a medical practitioner.

c. Each commission shall develop and issue guidelines to ensure the safety and efficacy of benefits provided pursuant to this section.

d. As used in this section:

"Opioid antidote" means naloxone hydrochloride, or any other similarly acting drug approved by the United States Food and Drug Administration for self-administration for the treatment of an opioid overdose.

4. This act shall take effect immediately and apply to every contract issued, renewed, or issued for renewal on or after that date, notwithstanding any federal approval required under the Medicaid and NJ FamilyCare programs pursuant to section 2 of this act.

Approved July 2, 2021.

CHAPTER 158

AN ACT authorizing the execution of leases between the State Treasurer and the New Jersey Economic Development Authority for the New Jersey Wind Port.

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

1. The Legislature finds and declares:

a. Executive Order No. 8 of 2018 commits the State to immediately pursue an initial 1,100 megawatts of offshore wind power and a total of 3,500 megawatts of offshore wind energy by 2030, and Executive Order No. 92 of 2019 increased this power procurement target to 7,500 megawatts by 2035;

b. Recent awards of offshore wind energy projects along the country's east coast have created an unprecedented opportunity to source parts and materials from the United States instead of Europe, and several states are in a time sensitive competition to become major supply chain hubs for the offshore wind energy industry;

c. The development of a local offshore wind energy supply chain is critical to realizing the full economic benefits of this new industry, and the development of port infrastructure, especially a marshalling, installation, and manufacturing port is critical to anchoring major offshore wind energy supply chain investments within the State and creating the high-paying port and manufacturing jobs associated therewith;

d. A site located in Lower Alloways Creek Township, Salem County was identified in the New Jersey Offshore Wind Strategic Plan, issued by the Board of Public Utilities in 2020, as a high-potential option for marshalling and installation activities for offshore wind energy projects; and

e. To ensure the development of the wind energy supply chain necessary to capture the benefits of the burgeoning offshore wind energy economy, the New Jersey Economic Development Authority has entered into negotiations to lease or purchase real property at the Lower Alloways Creek Township identified in the New Jersey Offshore Wind Strategic Plan to develop a marshalling, installation, and manufacturing wind port to be named the New Jersey Wind Port.

2. a. Notwithstanding the provisions of the "New Jersey Building Authority Act," P.L.1981, c.120 (C.52:18A-78.1 et seq.) or any other law, rule, or regulation to the contrary, the State Treasurer may enter into a lease for real property and improvements with the New Jersey Economic Development Authority for real property and improvements acquired, leased, or caused to be constructed by the New Jersey Economic Development Authority for the New Jersey Wind Port in Lower Alloways Creek Township, Salem County, provided, however, the State Treasurer shall notify, in writing, the President of the Senate and the Speaker of the General Assembly seven days prior to entering into a lease pursuant to this section.

b. Notwithstanding the provisions of P.L.1962, c.220 (C.52:31-1.1 et seq.), as amended by P.L.1993, c.38 (C.13:1D-51 et seq.) and P.L.1997, c.135 (C.52:31-1.3a et al.), or any other law, rule, or regulation to the contrary, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority for real property and improvements for the New Jersey Wind Port in Lower Alloways Creek Township, Salem County. A lease of real property and improvements by the State Treasurer to the New Jersey Economic Development Authority for the purposes described in this section shall not require the approval of the State House Commission, nor shall the lease of real property and improvements by the State Treasurer to the New Jersey Economic Development Authority for the New Jersey Wind Port require any further approval of the Legislature.

3. This act shall take effect immediately.

Approved July 2, 2021.

CHAPTER 159

AN ACT authorizing the Capital City Redevelopment Corporation on behalf of the State Treasurer to sell certain surplus real property and improvements owned by the State in the City of Trenton, County of Mercer, and making an appropriation.

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

1. The Legislature finds and declares that:

a. The State of New Jersey currently leases real property located at Block 1902, Lot 1, in the City of Trenton, County of Mercer upon which the former Division of Taxation Building was constructed. Pursuant to the lease, the State will become the owner of the property as of July 1, 2022. The State has determined that it no longer needs the site for State purposes after that date.

b. The continued use of the property is an important step in ensuring that the State of New Jersey continues to support the City of Trenton's downtown redevelopment.

c. The Capital City Redevelopment Corporation was established with the public purpose of planning, coordinating, and encouraging the redevelopment of the Capital City District within the City of Trenton in a manner that enhances the vitality of the Capital District as a place of commerce, recreation, and culture.

d. A request for proposal process would be the best disposition process for the property due to the economic development opportunities surrounding the reuse and redevelopment of the property and the impact such sale will have on the Capital City District including the surrounding properties such as the State Capitol Complex, the War Memorial, and the Old Barracks, all for which the State has made a considerable investment of capital.

e. The Capital City Redevelopment Corporation, in consultation with the State Treasurer and the New Jersey Economic Development Authority, is best suited to oversee the request for proposal process and ensure that the redevelopment of the property is undertaken in a manner that enhances the Capital City District as defined at section 6 of P.L.1987, c.58 (C.52:9Q-14).

2. a. The Capital City Redevelopment Corporation, on behalf of and with the consent of the State Treasurer, is authorized to sell and convey all of the State's right, title, and interest in and to the property formerly known as the Taxation Building, which contains 0.55+- acres of land and improvements thereon, designated as Block 1902, Lot 1, in the City of Trenton, County of Mercer, which land and improvements have been declared surplus to the needs of the State.

b. The Capital City Redevelopment Corporation shall arrange for the sale and conveyance of the property in accordance with the procedures for such disposition that shall be submitted to the State House Commission for approval.

c. The Capital City Redevelopment Corporation shall undertake a request for proposal process, in consultation with the State Treasurer, to sell the property using the procedures approved by the State House Commission. Any award to the successful bidder shall be subject to the consent of the State Treasurer.

3. The proceeds from the sale and conveyance of the property in accordance with section 2 of this act, P.L.2021, c.159, are hereby appropriated and shall be paid to the Capital City Redevelopment Corporation and the Capital City Redevelopment Corporation shall pay the costs, expenses, and fees incurred by the State Treasurer, the Capital City Redevelopment Corporation, and the New Jersey Economic Development Authority. Any monies remaining after payment of such costs may be used by the Capital City Redevelopment Corporation for the purposes authorized by law.

4. This act shall take effect immediately.

Approved July 2, 2021.

CHAPTER 160

AN ACT concerning State economic development policy, amending various sections of the statutory law, supplementing Title 34 of the Revised Statutes, and making an appropriation.

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

1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to read as follows:

C.34:1B-271 Definitions.

3. As used in sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including, but not limited to, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Cost of rehabilitation" means the consideration given, valued in money, whether given in money or otherwise, for the materials and services which constitute the rehabilitation.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Income producing property" means a structure or site that is used in a trade or business or to produce rental income.

"New Jersey S corporation" means the same as the term is defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

"Officer" means the State Historic Preservation Officer or the official within the State designated by the Governor or by statute in accordance with the provisions of chapter 3023 of Title 54, United States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the purpose of administering historic preservation programs in the State.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Project financing gap" means the part of the total cost of rehabilitation, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total cost of rehabilitation, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the cost of rehabilitation. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of either: a. the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or b. the value as determined by a current appraisal.

"Property" means a structure, including its site improvements and landscape features, assessed as real property, and used for: a commercial purpose; a residential rental purpose, provided the structure contains at least four dwelling units; or any combination thereof.

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Qualified property" means a property located in the State of New Jersey that is an income producing property, and that is:

a. (1) individually listed, or located in a district listed on the National Register of Historic Places in accordance with the provisions of chapter 3021 of Title 54, United States Code (54 U.S.C. s.302101 et seq.), or on the New

Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually designated, or located in a district designated, by the Pinelands Commission as a historic resource of significance to the Pinelands in accordance with the Pinelands comprehensive management plan adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

(2) if located within a district, certified by either the officer or the Pinelands Commission, as appropriate, as contributing to the historic significance of the district; or

b. (1) individually identified or registered, or located in a district composed of properties identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property or district is located if the criteria for identification or registration has been approved by the officer as suitable for substantially achieving the purpose of preserving and rehabilitating buildings of historic significance within the jurisdiction of the municipality, and

(2) if located within a district, certified by the officer as contributing to the historic significance of the district.

"Rehabilitation" means the repair or reconstruction of the exterior or interior of a qualified property or transformative project to make an efficient contemporary use possible while preserving the portions or features of the property that have significant historical, architectural, and cultural values.

"Rehabilitation of the interior of the qualified property or transformative project" means the repair or reconstruction of the structural or substrate components and electrical, plumbing, and heating components within the interior of a qualified property or transformative project.

"Selected rehabilitation period" means a period of 24 months if the beginning of such period is chosen by the business entity during which, or parts of which, a rehabilitation is occurring, or a period of 60 months if a rehabilitation is reasonably expected to be completed in distinct phases set forth in written architectural plans and specifications completed before or during the physical work on the rehabilitation.

"Transformative project" means a property that is:

a. an income producing property, not including a residential property, whose rehabilitation the authority determines will generate substantial increases in State revenues through the creation of increased business activity within the surrounding area;

b. individually listed on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et al.), received a Determination

of Eligibility from the Keeper of the National Register of Historic Places in accordance with the provisions of Part 60 of Title 36 of the Code of Federal Regulations; and

c. (1) located within a one-half mile radius of the center point of a transit village, as designated by the New Jersey Department of Transportation, and located within a city of the first class, as classified under N.J.S.40A:6-4; or (2) located within a government-restricted municipality.

2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to read as follows:

C.34:1B-272 Tax credit.

4. a. (1) A business entity, upon successful application to the New Jersey Economic Development Authority, and commitment to the authority to pay each worker employed to perform construction work and building services work at the qualified property or transformative project a wage not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for a portion of the cost of rehabilitation paid by the business entity for the rehabilitation of a qualified property or transformative project, if the cost of rehabilitation during a business entity's selected rehabilitation period is not less than the greater of (a) the adjusted basis of the structure of the qualified property or transformative project used for federal income tax purposes as of the beginning of the business entity's selected rehabilitation period, or (b) $5,000. The amount of the credit claimed in any accounting or privilege period shall not reduce the amount of the tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(2) The amount of credit allowed to a business entity pursuant to this section shall be as follows:

(a) for the rehabilitation of a qualified property located in a qualified incentive tract or government-restricted municipality, 45 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the qualified property or $8 million, whichever is less;

(b) for the rehabilitation of a transformative project, 45 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the transformative project or $50 million, whichever is less; and

(c) for the rehabilitation of any other qualified property not subject to provisions of subparagraph (a) or (b) of this paragraph, 40 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the qualified property or $4 million, whichever is less.

(3) The prevailing wage requirement for construction work shall apply at a qualified property or transformative project during the selected rehabilitation period, and the prevailing wage requirement for building services work shall apply at a qualified property or transformative project for 10 years following completion of the rehabilitation work at the qualified property or transformative project. In the event a qualified property or transformative project, or the aggregate of all qualified properties and transformative projects approved for awards under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

(4) Prior to approval of an application by the authority, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the business entity is in substantial good standing with the respective department or has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity. The business entity shall certify that any contractors or subcontractors that perform work at the qualified property or transformative project: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the business entity. Following approval of an application by the authority, but prior to the start of any construction or rehabilitation at the qualified property or transformative project, the authority shall enter into a rehabilitation agreement with the business entity. The authority shall negotiate the terms and conditions of the rehabilitation agreement on behalf of the State.

(5) A rehabilitation project shall be eligible for a tax credit only if the business entity demonstrates to the authority at the time of application that:

(a) without the tax credit, the rehabilitation project is not economically feasible; and

(b) a project financing gap exists.

b. A business entity may claim a credit under this section during the accounting or privilege period: (1) in which it makes the final payment for the cost of the rehabilitation if the business entity has chosen a selected rehabilitation period of 24 months; or (2) in which a distinct project phase of the rehabilitation is completed if the business entity has chosen a selected rehabilitation period of 60 months. The credit may be claimed against any State tax, listed in paragraph (1) of subsection a. of this section, liability otherwise due after any other credits permitted pursuant to law have been applied. The amount of credit claimed in an accounting or privilege period that cannot be applied for that accounting or privilege period due to limitations in this section may be transferred pursuant to section 5 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to the nine accounting or privilege periods following the accounting or privilege period for which the credit was allowed.

c. A business entity shall submit to the authority satisfactory evidence of the actual cost of rehabilitation, as certified by a certified public accountant, evidence of completion of the rehabilitation or phase, and a certification that all information provided by the business entity to the authority is true, including information contained in the application, the rehabilitation agreement, any amendment to the rehabilitation agreement, and any other information submitted by the business entity to the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). The business entity, or an authorized agent of the business entity, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

3. Section 5 of P.L.2020, c.156 (C.34:1B-273) is amended to read as follows:

C.34:1B-273 Corporation business tax credit transfer certificate program, insurance premiums tax credit transfer certificate program.

5. a. The authority shall, in cooperation with the director, establish and administer a corporation business tax credit transfer certificate program and an insurance premiums tax credit transfer certificate program to enable business entities with unused, otherwise allowable amounts of tax credits issued pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) to exchange these credits, in whole or in part, for private financial assistance prior to the expiration of the tax credit.

A certificate issued by the director and the authority shall include a statement waiving the rights of the business entity to which the tax credit has been granted to claim any amount of remaining credit against any tax liability.

b. A business entity holding an unused, otherwise allowable tax credit issued pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) may apply to the director and the authority for a tax credit transfer certificate pursuant to subsection a. of this section. Upon receipt thereof, the business entity may sell or assign, in full or in part, the tax credit transfer certificate to another taxpayer in exchange for private financial assistance to be provided by the purchaser or assignee of the tax credit transfer certificate to the seller thereof. The developer shall not sell a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The purchaser or assignee of the tax credit transfer certificate may apply the face value of the tax credit transfer certificate acquired against the purchaser's or assignee's applicable tax liability by claiming the tax credit on the purchaser's or assignee's corporation business tax or insurance premiums tax return with the corresponding tax credit transfer certificate accompanying the tax return. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

c. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

4. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to read as follows:

C.34:1B-274 Rules, regulations.

6. a. The authority shall, in consultation with the officer and the director, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the officer deems necessary to administer the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), including but not limited to rules establishing administrative fees to implement the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), and setting of an annual application submission date, requiring annual reporting by each business entity that receives a tax credit pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). As part of the authority's review of the annual reports required from each business entity that receives a tax credit, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that: the business entity is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity, and the business entity shall certify that any contractors or subcontractors performing work at the qualified property or transformative project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The rules and regulations adopted pursuant to this section shall also include a provision to require that business entities forfeit all tax credits awarded in any year in which the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury advises the authority that the business entity is not in substantial good standing nor has the business entity entered into an agreement with the respective department that includes a practical corrective action plan, and to allow the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement established pursuant to this section.

b. For every tax credit allowed pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with the officer, shall certify to the director: the total cost of rehabilitation; that the property meets the

definition of qualified property or transformative project, as applicable; and that the rehabilitation has been completed in substantial compliance with the requirements of the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations. The business entity shall attach the certification to the tax return on which the business entity claims the credit.

c. (1) The total amount of credits approved by the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority approves less than the total amount of tax credits authorized pursuant to this subsection in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the limit of subsequent fiscal years until that amount of tax credits are claimed or allowed. Any unapproved, uncertified, or recaptured portion of tax credits during any fiscal year may be carried over and reallocated in succeeding years.

(2) Notwithstanding the provisions of paragraph (1) of this subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the contrary, the authority may approve tax credits, pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), for the rehabilitation of a transformative project in an amount that causes the total amount of credits approved during the fiscal year to exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), provided that the amount of the excess shall be subtracted from the total amount of credits that may be approved by the authority in the subsequent fiscal year, and the amount of the excess shall not exceed 50 percent of the total tax credits otherwise authorized for the fiscal year.

The authority, in consultation with the officer, shall devise criteria for allocating tax credit amounts if the approved amounts combined exceed the total amount in each fiscal year, including rules that allocate over multiple fiscal years a single credit amount granted in excess of $2,000,000. The criteria shall include a project's historic importance, positive impact on the surrounding neighborhood, economic sustainability, geographic diversity, and consistency with Statewide growth and development policies and plans.

5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to read as follows:

C.34:1B-278 Definitions.

10. As used in sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287):

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Brownfield site" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant or on which there is contaminated building material.

"Building services" means any cleaning or routine building maintenance work, including, but not limited to, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Contaminated building material" means components of a structure where abatement or removal of asbestos, or remediation of materials containing hazardous substances defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by applicable federal, state, or local rules or regulations.

"Contamination" or "contaminant" means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or contaminated building material.

"Department" means the Department of Environmental Protection.

"Developer" means any person that enters or proposes to enter into a redevelopment agreement with the authority pursuant to the provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the

State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Licensed site remediation professional" means an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

"Program" means the Brownfields Redevelopment Incentive Program established by section 11 of P.L.2020, c.156 (C.34:1B-279).

"Project financing gap" means the part of the total remediation cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total remediation cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the cost of rehabilitation. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of either: a. the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or b. the value as determined by a current appraisal.

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Redevelopment agreement" means an agreement between the authority and a developer under which the developer agrees to perform any work or undertaking necessary for the remediation of a brownfield site located at the site of the redevelopment project, and for the clearance, development or redevelopment, construction, reconstruction, or rehabilitation of any

structure or improvement of commercial, industrial, or public structures or improvements within an area of land whereon a brownfield site is located.

"Redevelopment project" means a specific construction project or improvement undertaken, pursuant to the terms of a redevelopment agreement, by a developer within an area of land whereon a brownfield site is located. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, or any portion thereof, as those terms are defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and hazardous materials abatement; hazardous materials or waste disposal; building and structural remedial activities, including, but not limited to, demolition, asbestos abatement, polychlorinated biphenyl removal, contaminated wood or paint removal, or other infrastructure remedial activities; provided, however, "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources.

"Remediation costs" means all reasonable costs associated with the remediation of a contaminated site, except any costs incurred in financing the remediation.

6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to read as follows:

C.34:1B-280 Application for tax credit.

12. a. A developer seeking a tax credit for a redevelopment project shall submit an application to the authority and the department in a form and manner prescribed in regulations adopted by the authority, in consultation with the department, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. A redevelopment project shall be eligible for a tax credit only if the developer demonstrates to the authority and the department at the time of application that:

(1) except as provided in subsection j. of this section, the developer has not commenced any remediation or clean up at the site of the redevelopment project, except for preliminary assessments and investigations, prior to

applying for a tax credit pursuant to this section, but intends to remediate and redevelop the site immediately upon approval of the tax credit;

(2) the redevelopment project is located on a brownfield site;

(3) without the tax credit, the redevelopment project is not economically feasible;

(4) a project financing gap exists;

(5) the developer has obtained and submitted to the authority a letter evidencing support for the redevelopment project from the governing body of the municipality in which the redevelopment project is located; and

(6) each worker employed to perform remediation, construction, or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage requirements shall apply for remediation or construction work through the completion of the redevelopment project, and the prevailing wage requirements shall apply for building services work at the site of the redevelopment project for 10 years following completion of the redevelopment project. In the event a redevelopment project, or the aggregate of all redevelopment projects approved for an award under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

c. A redevelopment project that received a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) shall not be eligible to apply for a tax credit under the program. If the authority receives an application and supporting documentation for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) prior to the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the authority may consider the application and award a tax credit to a developer, provided that the authority shall take final action on all applications for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) no later than July 1, 2019. No applications shall be submitted pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) after the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

d. (1) Prior to approval of an application, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a

practical corrective action plan for the developer. The authority may also contract with an independent third party to perform a background check on the developer. The developer shall certify that any contractors or subcontractors that perform work at the redevelopment project: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey, and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. Provided that the developer is in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury, or has entered into such an agreement, and following approval of an application by the board, the authority shall enter into a redevelopment agreement with the developer, as provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

(2) The authority, in consultation with the department, may impose additional requirements upon an applicant through rule or regulation adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the department determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

e. The authority, in consultation with the department, shall conduct a review of the applications through a competitive application process whereby the authority and the department shall evaluate all applications submitted by a date certain, as if all received applications were submitted on that date. In addition to the eligibility criteria set forth in subsection b. of this section, the authority, in consultation with the department, may consider additional factors that may include, but shall not be limited to: the economic feasibility of the redevelopment project; the benefit of the redevelopment project to the community in which the remediation project is located; the degree to which the redevelopment project enhances and promotes job creation and economic development and reduces environmental or public health stressors in an overburdened community, as those terms are defined by section 2 of P.L.2020, c.92 (C.13:1D-158), and attendant department regulations; and, if the developer has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the redevelopment project is located. The authority, in consultation with the department, shall submit applications that comply with the eligibility criteria set forth in this section, fulfill the additional factors considered by the authority pursuant to

this subsection, satisfy the submission requirements, and provide adequate information for the subject application, to the board for final approval.

f. The authority shall award tax credits to redevelopment projects until either the available tax credits are exhausted or all redevelopment projects that are eligible for a tax credit pursuant to the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284).

g. A developer shall pay to the authority or to the department, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third party retained by the authority or department performs, if the authority or department deems such retention to be necessary.

h. If the authority determines that a developer made a material misrepresentation on the developer's application, the developer shall forfeit all tax credits awarded under the program.

i. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true, under the penalty of perjury.

j. A developer who has commenced remediation or clean up at the site and who could not reasonably have known the full extent of the site contamination prior to commencing the remediation may still apply for a tax credit under the program, if the developer certifies to the authority, under the penalty of perjury, that the developer cannot reasonably finish the remediation and commence the redevelopment project absent the tax credit.

7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to read as follows:

C.34:1B-281 Redevelopment agreement.

13. a. Following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, except activities disclosed at the time of approval, the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The redevelopment agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 15 of P.L.2020, c.156 (C.34:1B-283).

c. The authority shall not enter into a redevelopment agreement with a developer unless:

(1) the redevelopment project complies with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction;

(2) the redevelopment project complies with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); and

(3) the developer pays each worker employed to perform remediation work, construction work, or building services work at the redevelopment project not less than the prevailing wage rate in accordance with the requirements of paragraph (6) of subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

d. The authority shall not enter into a redevelopment agreement unless the developer demonstrates, to the satisfaction of the Department of Environmental Protection, that the developer did not discharge a hazardous substance at the brownfield site proposed to be in the redevelopment agreement, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into a redevelopment agreement for a redevelopment project that includes at least one retail establishment that will have more than 10 employees, or at least one distribution center that will have more than 20 employees, unless the redevelopment agreement includes a precondition that any business that serves as the owner or operator of the retail establishment or distribution center enters into a labor harmony agreement with a labor

organization or cooperating labor organizations which represent retail or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into a redevelopment agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the redevelopment project would not be feasible if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations that have requested to be on the list and that the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. The redevelopment agreement shall provide that issuance of a tax credit under the program shall be conditioned upon the subrogation to the department of all rights of the developer to recover remediation costs from any other person who discharges a hazardous substance or is in any way responsible, pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that was discharged at the brownfield site.

g. A developer may seek a revision to the redevelopment agreement if the developer cannot complete the remediation on or before the date set forth in the redevelopment agreement. A developer's ability to change the date on which the developer shall complete the remediation shall be subject to the availability of tax credits in the year of the revised date of completion.

h. A developer shall submit to the authority satisfactory evidence of the actual remediation costs, as certified by a certified public accountant, and a Licensed Site Remediation Professional for costs under the jurisdiction of the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed or certified professional for costs that are not under the jurisdiction of the "Site Remediation Reform Act," evidence of completion of the remediation as demonstrated by a Response Action Outcome where the remediation is subject to the "Site Remediation Reform Act," a certification from the appropriate licensed or certified professional for other remedial activities, and a certification that all information provided by the developer to the authority is true, including information contained in the application, the redevelopment agreement, any amendment to the redevelopment agreement, and any other information submitted by the developer to the authority pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287). The developer, or an authorized agent of the developer, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

i. The redevelopment agreement shall include a provision allowing the authority to recapture the tax credits for any year in which the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury that advises the authority that the developer is not in substantial good standing with the respective department, nor has the developer entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The redevelopment agreement shall also include a provision allowing the authority to recapture the tax credits for any year in which the developer fails to confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The redevelopment agreement

shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

8. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to read as follows:

C.34:1B-284 Certification upon completion of redevelopment project.

16. a. Upon completion of the remediation, the developer shall seek certification from the department that:

(1) the remediation is complete;

(2) the developer complied with the requirements of section 15 of P.L.2020, c.156 (C.34:1B-283), including the requirements of any memorandum of agreement or other oversight document that the developer may have executed with the Commissioner of Environmental Protection pursuant to that section; and

(3) the remediation costs were actually and reasonably incurred.

Upon receipt of certification, and confirmation by the authority that the developer's obligations under the redevelopment agreement have been met, a developer shall be awarded a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as follows: (a) for project located in a qualified incentive tract or government-restricted municipality, in an amount not to exceed 60 percent of the actual remediation costs, or 60 percent of the projected remediation costs as set forth in the redevelopment agreement, or $8,000,000, whichever is least; and (b) for all other projects, in an amount not to exceed 50 percent of the actual remediation costs, or 50 percent of the projected remediation costs as set forth in the redevelopment agreement, or $4,000,000, whichever is least. The developer, or an authorized agent of the developer, shall certify that the information provided to the department and the authority pursuant to this subsection is true under the penalty of perjury.

b. When filing an application for certification pursuant to subsection a. of this section, the developer shall submit to the department: (1) the total remediation costs incurred by the developer for the remediation of the subject property located at the site of the redevelopment project, as provided in the redevelopment agreement, and certified by a certified public accountant, and a Licensed Site Remediation Professional for costs under the jurisdiction of the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed or certified professional for costs that are not under the jurisdiction of the "Site

Remediation Reform Act"; (2) evidence of completion of the remediation, as demonstrated by a Response Action Outcome where the remediation is subject to the "Site Remediation Reform Act"; (3) a certification from the appropriate licensed or certified professional for other remedial activities; (4) information concerning the occupancy rate of the buildings or other work areas located on the property subject to the redevelopment agreement; and (5) such other information as the department deems necessary in order to make the certifications and findings pursuant to this section.

c. A developer shall apply the credit awarded against the developer's liability for the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the department awards the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward any unused credit.

d. The director shall prescribe the order of priority of the application of the credit awarded under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

9. Section 17 of P.L.2020, c.156 (C.34:1B-285) is amended to read as follows:

C.34:1B-285 Application for tax credit transfer certificate.

17. a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, during the privilege period in which the director awards the developer a tax credit pursuant to section 16 of P.L.2020, c.156 (C.34:1B-284), in lieu of the developer being allowed to apply any amount of the tax credit against the developer's State tax liability. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate

provided to the developer shall include a statement waiving the developer's right to claim the credit that the developer has elected to sell or assign.

b. The developer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 16 of P.L.2020, c.156 (C.34:1B-284) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to read as follows:

C.34:1B-287 Regulations.

19. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the Commissioner of Environmental Protection, may adopt, immediately upon filing with the Office of Administrative Law, regulations that the chief executive officer and commissioner deem necessary to implement the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which regulations shall be effective for a period not to exceed 360 days from the date

of the filing. The chief executive officer, in consultation with the Commissioner of Environmental Protection, shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting by developers that receive tax credits pursuant to the program, in addition to the regular progress updates. As part of the authority's review of the annual reports required from a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that any contractors or subcontractors performing work at the redevelopment project: a. are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); b. have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and c. possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The rules and regulations adopted pursuant to this section shall also include a provision to require that, in any year in which the developer is not in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury, the developer may forfeit all tax credits awarded in that year, and to allow the authority to extend, in individual cases, the deadline for any annual reporting requirement established pursuant to this section.

11. Section 24 of P.L.2020, c.156 (C.34:1B-292) is amended to read as follows:

C.34:1B-292 Sale of tax credits.

24. a. The authority shall sell the tax credits authorized pursuant to section 22 of P.L.2020, c.156 (C.34:1B-290) to purchasers through a competitive auction process.

b. The authority shall determine the form and manner in which potential purchasers may bid for tax credits available under the program. To be awarded a tax credit under the program, a potential purchaser shall:

(1) specify the requested amount of tax credits, which shall not be less than $500,000;

(2) specify the amount the potential purchaser will pay in exchange for the requested amount of tax credits, which shall not be less than 75 percent of the requested dollar amount of tax credits;

(3) commit to serve on the New Jersey Innovation Evergreen Advisory Board, established pursuant to section 32 of P.L.2020, c.156 (C.34:1B-300), and to otherwise provide mentorship, networking, and collaboration opportunities to qualified businesses that receive funding under the program; and

(4) provide any other information that the chief executive officer of the authority determines is necessary.

c. Prior to an auction, the authority shall establish and disclose to bidders the weighted criteria the authority will utilize, which the authority shall base on the price offered to purchase the tax credits and the quality of the mentorship and networking opportunities and other support of the State's innovation ecosystem offered by a purchaser in its bid. The authority may pro rate the amount of tax credits allocated to each purchaser. A potential purchaser that submits a bid for tax credits under this section shall receive a written notice from the authority indicating whether the authority has approved it as a purchaser of tax credits and, if so, the amount of tax credits approved.

d. Except as provided in section 22 of P.L.2020, c.156 (C.34:1B-290), the authority shall hold one competitive auction per calendar year.

e. The authority may contract with an independent third party to conduct the competitive bidding process through which State tax credits issued by the authority may be sold.

12. Section 29 of P.L.2020, c.156 (C.34:1B-297) is amended to read as follows:

C.34:1B-297 Criteria for qualified venture firm.

29. a. The authority shall certify or refuse to certify a venture firm as a qualified venture firm based on the criteria for certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-296), and subsections b. and c. of this section.

b. The authority shall not certify a venture firm as a qualified venture firm if the venture firm has: (1) an equity capitalization, net assets, or written commitments of less than $10,000,000 in the form of cash or cash equivalents on the date the determination for certification is made; or (2) fewer than two principals or persons employed to direct the qualified investment of capital with at least five years of money management experience in the venture capital or private equity sectors on the date the determination for certification is made. The authority may adopt, pursuant

to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules setting forth additional disqualifying criteria and adjusting the minimum equity capitalization, net assets, or written commitments of a qualified venture firm.

c. Prior to certifying a venture firm as a qualified venture firm, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the venture firm is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the venture firm. The authority may also contract with an independent third party to perform a background check on the venture firm.

d. The authority shall provide written notification to each venture firm that is certified as a qualified venture firm by the authority and shall provide written notification to each venture firm that the authority refuses to certify as a qualified venture firm, communicating in detail the grounds for the authority's refusal. The authority shall review each qualified venture firm annually for the disqualifying criteria set forth in subsection b. of this section or other reasonable industry-accepted standards as determined by the authority. The authority may decertify a qualified venture firm at any time pursuant to the disqualifying criteria set forth in subsection b. of this section. Decertification shall not affect any previously made qualified investment or the fund's commitment to make a follow-on investment in a qualified business.

13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to read as follows:

C.34:1B-305 Definitions.

37. As used in sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Department" means the Department of Agriculture.

"Eligible equipment costs" means expenditures for the procurement of such equipment as is needed to allow a supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity to store, refrigerate, transport, or otherwise maintain nutritious foods, including fresh fruits and vegetables, for retail purposes, but within a standard range based upon industry standards, as determined by the authority.

"Eligible technology costs" means expenditures for the procurement or upgrade of technology systems to support online ordering and e-commerce, including but not limited to computer hardware, software, internet connectivity, and database systems.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, and which has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

"Initial operating costs" means expenditures for the operation of a supermarket or grocery store within the first three years after opening to the public, but within a standard range based upon industry standards, as determined by the authority.

"Mid-sized food retailer" means a medium-sized retail outlet with at least 2,500 but less than 16,000 square feet, of which at least 75 percent is occupied by food and related products.

"Program" means the Food Desert Relief Program established in section 38 of P.L.2020, c.156 (C.34:1B-306).

"Project cost" means the costs incurred in connection with the establishment of a supermarket or grocery store within a food desert community by the developer until the opening of the supermarket or grocery store to the public, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs, and the cost of infrastructure improvements, including ancillary infrastructure projects.

"Project financing gap" means the part of the total project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, which shall not be less than 20 percent of the total project cost, which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis.

"Small food retailer" means a small retail outlet, with less than 2,500 square feet, that sells a limited selection of foods and other products, such as a bodega, convenience store, corner store, neighborhood store, small grocery, mobile food vendor, farmers' market, food co-op, or small-scale store.

"Supermarket or grocery store" means a retail outlet with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products.

14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to read as follows:

C.34:1B-306 Food Desert Relief Program.

38. a. (1) There is established the Food Desert Relief Program to be administered by the New Jersey Economic Development Authority. The program shall include tax credit components, as provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and C.34:1B-308), in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities.

(2) The total value of tax credits approved by the authority pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and C.34:1B-308) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

b. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall initially designate not more than 50 separate geographic areas that have limited access to nutritious foods as food desert communities in this State. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall develop criteria for the designation of food desert communities, but each separate food desert community shall consist of a distinct geographic area with a single defined border. The criteria shall, at a minimum, incorporate analysis of municipal or census tract poverty statistics, food desert information from the Economic Research Service of the United States Department of Agriculture, healthier food retail tract information from the federal Centers for Disease Control and Prevention, and residents' access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores. The authority, in consultation with the departments, may also consider in making food desert community designations pursuant to this subsection, data related to municipal or census tract population size and population density, the number of residents who receive Supplemental Nutrition Assistance Program (SNAP) benefits within a municipality, the extent to which a municipality's residents have access to a personal vehicle, and a municipality's Municipal Revitalization Index distress score, obesity

rate, and unemployment rate. The authority, in consultation with the departments, shall continuously evaluate areas previously designated as food desert communities and assess whether they still meet the criteria for designation as a food desert community and may designate additional food desert communities once every three years following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

c. To receive a tax credit under section 39 or 40 of P.L.2020, c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an application to the authority in the form and manner prescribed by the authority and in accordance with criteria established by the authority, which at minimum will include a commitment to accept benefits from federal nutrition assistance programs, such as the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Following the approval of an application, the authority may, pursuant to an award agreement, award tax credits to an eligible taxpayer that:

(1) develops and opens for business to the public the first or second supermarket or grocery store in a designated food desert community; or

(2) owns and operates the first or second supermarket or grocery store in a designated food desert community.

d. (1) The authority may sell all or a portion of the tax credits made available in a fiscal year pursuant to subsection a. of this section and dedicate the proceeds from such sale to provide grants and loans to qualifying supermarkets, grocery stores, mid-sized food retailers, small food retailers, and any other eligible entity. The amount of any grant or loan provided pursuant to this subsection shall be in accordance with the need of the supermarket, grocery store, mid-sized food retailer, small food retailer, or any other eligible entity, as determined by the authority. The authority shall sell tax credits pursuant to this section in the manner determined by the authority; provided, however, the authority shall not sell tax credits for less than 85 percent of the tax credit amount. Grants and loans made available pursuant to this subsection shall be awarded to entities that:

(a) are eligible for tax credits under subsection c. of this section in lieu of tax credits;

(b) own and operate a mid-sized food retailer or small food retailer that commits to selling nutritious foods, including fresh fruits and vegetables, in a designated food desert community; or

(c) at the discretion of the authority, support initiatives to strengthen food security of residents in food desert communities.

(2) A supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity shall submit an application to the authority to receive a grant or loan pursuant to this subsection. The application shall be submitted in the form and manner prescribed by the authority and in accordance with criteria established by the authority. An entity eligible for a grant or loan under subparagraph (a) of paragraph (1) of this subsection shall not be required to submit a separate application to the authority for the grant or loan, provided that the entity has submitted an application to the authority pursuant to subsection c. of this section.

(3) Prior to awarding a grant or loan to an applicant supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity pursuant to this subsection, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the applicant is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the applicant. The applicant shall certify that any contractors or subcontractors that perform work at the qualifying supermarket or grocery store: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the entity.

(4) An applicant supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the eligible equipment costs and eligible technology costs, as certified by a certified public accountant, certifications that all information provided by the applicant to the authority is true, including information contained in the application, any agreement pertaining to the award of grants or loans under the program, any amendment to such an agreement, and any other information submitted by the applicant to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the eligible equipment costs and eligible technology costs of the applicant. The applicant, or an authorized agent of the applicant, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

e. The authority may establish a technical assistance fund to assist any entity that is eligible for a tax credit, grant, or loan under this section. The

authority, through the technical assistance fund, may make grants to entities to assist qualifying supermarkets, grocery stores, mid-sized food retailers, small food retailers, or other eligible entities in implementation of best practices for increasing the accessibility of nutritious foods in food desert communities. Technical assistance shall be provided either directly by the authority or through a not-for-profit or for-profit entity and made available in English as well as the two most commonly spoken languages in New Jersey other than English. At the discretion of the authority, funds to support technical assistance may be provided in addition to, or in lieu of, any tax credit, grant, or loan awarded under sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

f. (1) The authority shall require that any tax credits, grants, or loans awarded by the authority under the program be utilized by the recipient for one or more of the following purposes, which shall be set forth in the award agreement:

(a) to mitigate a project financing gap;

(b) to mitigate the initial operating costs of the supermarket or grocery store; or

(c) to mitigate the eligible equipment costs or eligible technology costs of the supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity in order to make nutritious foods more accessible and affordable to residents within food deserts; or

(d) to support initiatives to ensure food security of residents in food desert communities.

(2) The value of tax credits, grants, or loans awarded to individual entities under the program shall not exceed:

(a) in the case of an entity eligible under paragraph (1) of subsection c. of this section, 40 percent of the total project cost for the first supermarket or grocery store in a designated food desert community, and 20 percent of the total project cost for the second supermarket or grocery store in the food desert community; and

(b) in the case of an entity eligible under paragraph (2) of subsection c. of this section, the initial operating costs of the first supermarket or grocery store in a designated food desert community, and one-half of the initial operating costs of the second supermarket or grocery store in the food desert community; and

(c) in the case of an entity eligible for a grant or loan under subparagraph (b) of paragraph (1) of subsection d. of this section, the eligible equipment costs and eligible technology costs of the supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity.

g. An entity that develops and opens a new supermarket or grocery store in a designated food desert community shall be eligible for a tax credit only if the entity demonstrates to the authority at the time of application that each worker employed to perform construction at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

h. (1) Except as provided in paragraph (2) of this subsection, a labor harmony agreement shall be required if the State has a proprietary interest in a supermarket or grocery store and the agreement shall remain in effect for as long as the State acts as a market participant in the project. The provisions of this paragraph shall apply to a supermarket or grocery store that will have more than 10 employees.

(2) A labor harmony agreement under paragraph (1) of this subsection shall not be required if the authority determines that the supermarket or grocery store would not be feasible if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a supermarket or grocery store and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at a supermarket or grocery store, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees at a supermarket or grocery store by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations that have requested to be on the list and that the Commissioner of Labor and Workforce Development has determined represent substantial numbers of supermarket or grocery store employees in the State.

i. A recipient shall certify that all factual representations made by the recipient in the application or award agreement are true under the penalty of

perjury. A material misrepresentation of fact in either the application or award agreement may result in recession and recapture of any grants or tax credits awarded, or acceleration of any loans made, under sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

15. Section 39 of P.L.2020, c.156 (C.34:1B-307) is amended to read as follows:

C.34:1B-307 Award of credit against tax due.

39. a. For privilege periods beginning on or after January 1 next following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306) shall be awarded a credit against the tax due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the award of a tax credit under this section may claim 25 percent of the total amount awarded in the privilege period in which the taxpayer establishes and opens the supermarket or grocery store for business, and an additional 25 percent of the total amount awarded in each of the three privilege periods next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be allowed a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309).

b. The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a taxpayer's tax liability for a privilege period to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the privilege period in which the certification is approved and any unused portion thereof may be carried forward into the next 10 privilege periods or until exhausted, whichever is earlier.

c. The authority shall award tax credits to taxpayers until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) receive a tax credit, whichever occurs

first. If insufficient funding exists to allow a tax credit to a taxpayer in accordance with the provisions of subsection a. of section 38 of P.L.2020, c.156 (C.34:1B-306), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section.

d. Prior to awarding a tax credit to a supermarket or grocery store, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the qualifying supermarket or grocery store is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the supermarket or grocery store, and the qualifying supermarket or grocery store shall certify that any contractors or subcontractors performing work at the qualifying supermarket or grocery store: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

e. A supermarket or grocery store shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the project cost, project financing gap, and the initial operating costs, as certified by a certified public accountant, certifications that all information provided by the supermarket or grocery store to the authority is true, including information contained in the application, any agreement pertaining to the award of tax credits under the program, any amendment to such an agreement, and any other information submitted by the supermarket or grocery store to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the initial opening and continued operation of the supermarket or grocery store. The supermarket or grocery store, or an authorized agent of the supermarket or grocery store, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

16. Section 40 of P.L.2020, c.156 (C.34:1B-308) is amended to read as follows:

C.34:1B-308 Credit against tax due.

40. a. For taxable years beginning on or after January 1 next following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303

through C.34:1B-310), a taxpayer eligible under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306) shall be awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a tax credit under this section may claim 25 percent of the total amount awarded in the taxable year in which the taxpayer establishes and opens the supermarket or grocery store for business, and may claim 25 percent of the total amount awarded in each of the three taxable years next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be awarded a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309).

b. The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury, in consultation with the chief executive officer of the authority. The amount of the credit applied pursuant to this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq. shall not reduce a taxpayer's tax liability for a taxable year to an amount less than zero. Any credit shall be valid in the taxable year in which the certification is approved and any unused portion thereof may be carried forward into the next 10 taxable years or until depleted, whichever is earlier.

c. A business entity that is classified as a partnership for federal income tax purposes shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year.

A taxpayer that is a New Jersey S corporation shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a pro rata share of S corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S corporation income of the New Jersey S corporation for its taxable year ending within or with the taxpayer's taxable year.

d. The authority shall award tax credits to taxpayers until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) receive a tax credit, whichever occurs

first. If insufficient funding exists to allow a tax credit to a taxpayer in accordance with the provisions of subsection a. of section 38 of P.L.2020, c.156 (C.34:1B-306), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section.

e. Prior to awarding a tax credit to a supermarket or grocery store, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the qualifying supermarket or grocery store is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan, and the qualifying supermarket or grocery store shall confirm that any contractors and subcontractors performing construction work at the qualifying supermarket or grocery store: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the qualifying supermarket or grocery store.

f. A supermarket or grocery store shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the project cost, project financing gap, and the initial operating costs, as certified by a certified public accountant, certifications that all information provided by the supermarket or grocery store to the authority is true, including information contained in the application, any agreement pertaining to the award of tax credits under the program, any amendment to such an agreement, and any other information submitted by the supermarket or grocery store to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the initial opening and continued operation of the supermarket or grocery store. The supermarket or grocery store, or an authorized agent of the supermarket or grocery store, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

17. Section 41 of P.L.2020, c.156 (C.34:1B-309) is amended to read as follows:

C.34:1B-309 Rules, regulations.

41. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief

executive officer of the authority, in consultation with the department and the Director of the Division of Taxation in the Department of the Treasury, may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations necessary to carry out the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), which rules and regulations shall be effective for a period not to exceed 360 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the rules and regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

18. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to read as follows:

C.34:1B-313 Definitions.

45. As used in sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by an anchor institution partner anchor institution, or a partner business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by the above referenced federal statutes.

"Anchor institution" means a governmental entity or nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes having a primary mission and specific policy goals that align with those of the authority under the program and that is a comprehensive health care system, a public research university, a private research university, a major cultural scientific, research, or philanthropic institution, or a public college which is separate from public research universities, or an experienced nonprofit or governmental economic or community development entity certified as an anchor institution by the board pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-314).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Commitment period" means the period of time, which shall be not less than 10 years and no greater than twice the eligibility period that is granted to an anchor institution or, if applicable, a partner anchor institution, to distribute to the authority the agreed upon returns on investment for the award of tax credits pursuant to the program; provided, however, at the election of the authority or upon the request of an anchor institution or, if applicable, a partner anchor institution in order to benefit the community-anchored project, and as determined in the sole discretion of the authority, the authority may grant up to two consecutive five-year extensions of the commitment period.

"Community-anchored project" means a capital project that is located in an area that is designated as a New Jersey State opportunity zone, an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or a municipality with a Municipal Revitalization Index distress score of at least 50 and for which an anchor institution and, if applicable, any partner anchor institution is to be awarded tax credits by the authority pursuant to a tax credit agreement which establishes the award of tax credits as an investment by the authority in the project, provided that the project will result in a capital investment of at least $10,000,000 in a New Jersey State opportunity zone or in any other area of the State, but a project that is not located in a New Jersey State opportunity zone is to be primarily designed to result in the economic expansion of a targeted industry in this State.

"Comprehensive health care system" means an entity in this State with the primary purpose of offering comprehensive health care services.

"Comprehensive health care services" means the basic health care services provided under a health benefits plan, including medical and surgical services provided by licensed health care providers who may include, but are not limited to, family physicians, internists, cardiologists, psychiatrists, rheumatologists, dermatologists, orthopedists, obstetricians, gynecologists, neurologists, endocrinologists, radiologists, nephrologists, emergency services physicians, ophthalmologists, pediatricians, pathologists, general surgeons, osteopathic physicians, physical therapists and chiropractors. Basic benefits may also include inpatient or outpatient services rendered at a licensed hospital, covered services performed at an ambulatory surgical facility, and ambulance services. "Comprehensive health care services" shall include only services provided by licensed health care providers.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Eligibility period" means the period in which an anchor institution or, if applicable, a partner anchor institution may claim, sell, transfer, or otherwise use a tax credit under the New Jersey Community-Anchored Development Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment requirements of the program and extending thereafter for a term of not more than 10 years.

"Eligible position" means a full-time position in a business in this State which the business has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Experienced nonprofit or governmental economic or community development entity" means a nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes with a substantial number of years of experience that has a core mission and a community track record of advancing economic or community development in at least one area of the State, that the senior management has undertaken multiple successful partnerships with government entities, educational institutions, and the private sector in carrying out development projects, that has successfully developed multiple types of mixed-use projects, and that has appropriate prior experience in successfully developing mixed-use projects of comparable or greater size, value and complexity to that being proposed, structuring, securing, and utilizing complex financing in the development of projects of comparable or greater size, value, and complexity to that being proposed, as determined by the board. An experienced nonprofit or governmental economic or community development entity shall not be eligible to participate in the program in connection with a project that is primarily residential or retail.

"Major cultural institution" means a public or nonsectarian nonprofit institution within this State that engages in the cultural, intellectual, scientific, environmental, educational, or artistic enrichment of the people of this State, and which is designated by the board as a major cultural institution.

"New full-time job" means an eligible position created by an anchor institution, partner anchor institution or a partner business at the community-anchored project that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"New Jersey State opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Partner anchor institution" means an anchor institution that partners with one or more anchor institutions to make an equity investment in or to provide a loan or other financial support for a community-anchored project.

"Partner business" means a corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, or other legal entity, but shall not include a public entity that enters into an agreement with an anchor institution or, if applicable, a partner anchor institution to rent and occupy commercial space within a community-anchored project. Under the program a partner business, subject to agreement with the anchor institution or, if applicable, a partner anchor institution, may lease one or more portions of the partner business's space in the community-anchored project to one or more other persons or entities.

"Private research university" means Princeton University and any other institution of higher education in this State designated by the board as a private research university, based on criteria and metrics established by the board.

"Program" means the New Jersey Community-Anchored Development Program established pursuant to section 46 of P.L.2020, c.156 (C.34:1B-314).

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, and Montclair State University.

"Qualified business accelerator or incubator facility" means a commercial space that contains office, laboratory, or industrial space and which is located near, and presents opportunities for collaboration with, a public research university, a private research university, teaching hospital, college, or university, and within which at least 50 percent of the gross leasable area is restricted for use by one or more targeted industry start-up companies during the commitment period.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between the authority and an anchor institution or, if applicable, a partner anchor institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55 et seq.).

19. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to read as follows:

C.34:1B-315 Eligibility to receive tax credit.

47. a. An anchor institution and, if applicable, each partner anchor institution shall be eligible to receive a tax credit under the program only if the anchor institution and, if applicable, each partner anchor institution submits a program application to the authority that results in completion of a community-anchored project through a capital investment in a New Jersey State opportunity zone or, if the community-anchored project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with a Municipal Revitalization Index distress score of at least 50.

b. At the time of application, an anchor institution and, if applicable, each partner anchor institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed community-anchored project will result in a capital investment in a New Jersey State opportunity zone or, if the project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with a Municipal Revitalization Index distress score of at least 50;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete and then operate the community-anchored project, including, but not limited to, the proposed economic and business relationship between the anchor institution and, if applicable, each partner anchor institution and any partner business;

(3) that the anchor institution and, if applicable, each partner anchor institution, along with any partner business and each partner institution participating in a community-anchored project, has not commenced any construction at the site of the community-anchored project prior to submitting an application, unless the authority determines that the community-anchored project would not be completed otherwise or, in the event the community-anchored project is to be undertaken in phases, the

requested tax credit covers only phases for which construction has not yet commenced;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the anchor institution and, if applicable, each partner anchor institution to finance the establishment of the community-anchored project;

(5) the total aggregate value of the tax credit for the entire eligibility period that is necessary in order for the anchor institution and, if applicable, each partner anchor institution to finance the establishment of the community-anchored project;

(6) that the award of tax credits under the program will be converted into an investment by the authority into the community-anchored project, and demonstrate to the authority the anticipated current and deferred returns, as applicable, on that investment;

(7) that the community-anchored project shall comply with the standards established by the authority through regulation based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction;

(8) that the community-anchored project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);

(9) a description of the significant economic, social, planning, employment, environmental, fiscal, and other benefits that would accrue to the State, county, or municipality from the community-anchored project;

(10) that during the eligibility period, each worker employed to perform construction work and building services work at the community-anchored project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the community-anchored project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the community-anchored project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(11) that during the eligibility period, the anchor institution and, if applicable, each partner anchor institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and

other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services;

(12) the extent to which the community-anchored development will result in the expansion of a targeted industry in this State;

(13) that the timing of the award and investment of tax credits under the program shall allow for the successful completion and operation of the community-anchored project; and

(14) that the community-anchored project is viable and that the anchor institution and, if applicable, each partner anchor institution is a credible partner for completing the community-anchored project and providing the agreed-upon potential returns to the authority, as detailed in the tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318).

c. Prior to the board considering an application submitted by an anchor institution and, if applicable, each partner anchor institution, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the anchor institution and, if applicable, each partner anchor institution and any partner business is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. The anchor institution shall certify that any contractors or subcontractors that will perform work at the community-anchored project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on an anchor institution and, if applicable, each partner anchor institution and any partner business.

d. In order to facilitate the creation of new partnerships with anchor institutions and, if applicable, partner anchor institutions, the authority shall publish on the authority's website a list of names and contact information for each anchor institution that has submitted an application pursuant to this section.

20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to read as follows:

C.34:1B-317 Awarding of tax credits.

49. a. The authority shall award tax credits under the program through a competitive application process consisting of up to two award rounds each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website.

b. (1) The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for community-anchored projects that satisfy the criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-315 and C.34:1B-316) in a given award round shall be ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that an anchor institution or, if applicable, each partner anchor institution is required to attain to be eligible for a tax credit.

(2) The authority may establish different criteria for community-anchored projects that are located in a New Jersey State opportunity zone and community-anchored projects that are primarily designed to result in the economic expansion of a targeted industry in this State.

c. The scoring system developed by the authority pursuant to subsection b. of this section shall assess applications for tax credits based on the following competitive criteria, which shall include, but shall not be limited to:

(1) the amount of tax credit requested by the anchor institution and, if applicable, each partner anchor institution compared to the overall investments required for the completion of the community-anchored project, along with the amount of the potential return on the authority's investment of tax credits to the State by the end of the commitment period, the amount of the tax credit, if any, that is unlikely to be realized as a return on investment to the State, and the proposed terms and structure for the authority's investment in the project, including applicable current and deferred returns;

(2) the financial benefit of the community-anchored project to the community in which the community-anchored project will be located;

(3) apprenticeships or workforce programs to be offered because of the community-anchored project;

(4) the ability of the community-anchored project to absorb and adapt to changing environmental conditions and deliver its objectives;

(5) how the community-anchored project will advance State, regional, and local development and planning strategies;

(6) the relationship of the community-anchored project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(7) the degree to which the community-anchored project enhances and promotes job creation and economic development;

(8) the extent of economic and related social distress in the municipality and the immediate area surrounding the community-anchored project;

(9) the extent to which the community-anchored project provides for the development of housing for individuals with special needs;

(10) the extent to which the community-anchored project constitutes the expansion of the anchor institution and, if applicable, each partner anchor institution to different areas of the State;

(11) the extent to which the community-anchored project provides for infrastructure, parking, retail, green space, or other public amenities creating a mixed-use community-anchored project;

(12) the inclusion of a qualified business accelerator or incubator facility as a part of the community-anchored project;

(13) the length of the commitment period for the community-anchored project;

(14) the quality and number of new full-time jobs that will be created by the anchor institution, partner anchor institution or a partner business at the community-anchored project;

(15) the quality and number of existing full-time jobs that will be retained by the anchor institution, partner anchor institution, or a partner business in the State as a result of completing the community-anchored project, with the criteria specifying, in scoring the application, that the retention of an existing full-time job shall be given not more than one-third the weight of a new full-time job of a similar quality; and

(16) if the anchor institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the community-anchored project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting competitive criteria required under the program when necessary to respond to the prevailing economic conditions in the State.

e. Prior to the award of a tax credit to an anchor institution or, if applicable, each partner anchor institution, to be converted into an authority investment in a community-anchored project, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the anchor institution and, if applicable, each partner anchor institution, along with any partner business identified in a program application, is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the anchor institution and, if applicable, each partner anchor institution and any partner business, and the anchor institution shall confirm that any contractors and subcontractors performing work at the community-anchored project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to community-anchored projects according to the community-anchored project's score and until either the available tax credits are exhausted or all community-anchored projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible community-anchored projects, a community-anchored project may be offered partial funding.

f. Applications that do not receive the minimum score established by the authority for that award round shall not receive further consideration for a tax credit by the authority in that award round; however, an anchor institution or partner anchor institution may revise or complete a new application to be submitted in a subsequent award round.

g. If an anchor institution or partner anchor institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.

21. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to read as follows:

C.34:1B-318 Tax credit agreement with anchor institution.

50. a. Following approval and selection of an application pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and C.34:1B-317), the

authority shall enter into a tax credit agreement with the anchor institution and, if applicable, each partner anchor institution. The chief executive officer of the authority shall negotiate the terms and conditions of the tax credit agreement on behalf of the State.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the anchor institution and, if applicable, each partner anchor institution for conversion into an authority investment and specify the duration of the eligibility period, which shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the community-anchored project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the anchor institution, each partner anchor institution, and any partner business provides executed financing commitments to the authority and a verification of the anchor institution's projected cash flow and each partner anchor institution's cash flow at the time of certification that the project is completed;

(2) specify the length of the commitment period for the community-anchored project and the terms by which the anchor institution and, if applicable, each partner anchor institution shall provide to the authority current or deferred returns on investment generated by the community-anchored project and commit to a structure for returns on investment;

(3) allow the anchor institution and, if applicable, each partner anchor institution to distribute returns on investment to the authority for the tax credits in the amount specified in the tax credit agreement at any time within the commitment period, but require such distribution to occur if the community-anchored project is sold before the end of the commitment period;

(4) specify amounts of returns to be retained by the anchor institution and, if applicable, each partner anchor institution for capital reserves, programming, or other purposes;

(5) identify the value of any monetary or financial benefit offered or provided by the anchor institution and, if applicable, each partner anchor

institution to any partner business that works with the anchor institution and, if applicable, each partner anchor institution to complete and operate the community-anchored project;

(6) identify any benefits created by the anchor institution and, if applicable, each partner anchor institution for a partner business through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;

(7) specify that the authority or the State may purchase tax credits offered for sale by an anchor institution and, if applicable, each partner anchor institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(8) at a minimum, require an anchor institution and, if applicable, each partner anchor institution to provide oversight of the community-anchored project through ongoing reporting by a partner business to the anchor institution and, if applicable, each partner anchor institution, and subsequent ongoing reporting by the anchor institution and, if applicable, each partner anchor institution to the authority;

(9) specify other measures through which the authority shall ensure oversight of outstanding tax credit investments, and, in the event that an anchor institution or partner anchor institution fails to meet its obligations under the tax credit agreement or any program requirement, establish the right of the authority to assume direct oversight of any or all projects for which the anchor institution or partner anchor institution has entered into investment agreements and require the anchor institution or partner anchor institution to pursue any remedies it may have against a partner business; and

(10) at a minimum, require that the anchor institution, each partner anchor institution, and any partner businesses, adopt specific nondiscrimination policies for the operation of a community-anchored project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the anchor institution and, if applicable, each partner institution and any partner business. As part of the authority's review of the annual reports required from each anchor institution and, if applicable, each partner institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that: the anchor institution and, if applicable, each partner institution and any partner business is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical

corrective action plan for the anchor institution and, if applicable, each partner anchor institution and any partner business, and the anchor institution shall confirm that any contractors and subcontractors performing work at the community-anchored project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The tax credit agreement shall include a provision that the anchor institution and, if applicable, each partner institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement or the anchor institution and, if applicable, each partner institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

e. An anchor institution and, if applicable, each partner institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The anchor institution and, if applicable, each partner institution, or an authorized agent of the anchor institution or partner institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

22. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read as follows:

C.34:1B-323 Definitions.

55. As used in sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335):

"Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J.

Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center.

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Cash flow" means the profit or loss that an investment property earns from rent, deposits, and other fees after financial obligations, such as debt, maintenance, government payments, and other expenses, have been paid.

"Collaborative workspace" means coworking, accelerator, incubator, or other shared working environments that promote collaboration, interaction, socialization, and coordination among tenants through the clustering of multiple businesses or individuals. For this purpose, the collaborative workspace shall be the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated. The collaborative workspace shall include a community manager, be focused on collaboration among the community members, and include regularly scheduled education events for the community members. The collaborative workspace shall also include a physical open space that supports the engagement of its community members.

"Commercial project" means a redevelopment project, which is predominantly commercial and contains 100,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, for purchase or lease and may include a parking component.

"Developer" means a person who enters or proposes to enter into an incentive award agreement pursuant to the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Economic development incentive" means a financial incentive, awarded by the authority, or agreed to between the authority and a business or person, for the purpose of stimulating economic development or redevelopment in New Jersey, including, but not limited to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or other tax expenditure.

"Eligibility period" means the period not to exceed 15 years for a commercial or mixed-use project or the period not to exceed 10 years for a residential project specified in an incentive award agreement during which a developer may claim a tax credit under the program.

"Enhanced area" means (1) a municipality that contains an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208); (2) the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index; and (3) the three municipalities with the highest percentage of SNAP recipients according to the 2017 Municipal Revitalization Index.

"Food delivery source" means access to nutritious foods, such as fresh fruits and vegetables, through grocery operators, including, but not limited to a full-service supermarket or grocery store, and other healthy food retailers of at least 16,000 square feet, including, but not limited to, a prepared food establishment selling primarily nutritious ready-to-serve meals.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, and that has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25

percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Health care or health services center" means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners.

"Incentive area" means an aviation district, a port district, or an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center, provided an area designated as Planning Area 2 (Suburban) or a Designated Center shall be located within a one-half mile radius of the mid-point, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation.

"Incentive award" means an award of tax credits to reimburse a developer for all or a portion of the project financing gap of a redevelopment project pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

"Incentive award agreement" means the contract executed between a developer and the authority pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and conditions under which the developer may receive the incentive awards authorized pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

"Incubator facility" means a commercial property, which contains 5,000 or more square feet of office, laboratory, or industrial space, which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university, and within which at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies.

"Individuals with special needs" means individuals with mental illness, individuals with physical or developmental disabilities, and individuals in other emerging special needs groups identified by the authority, based on guidelines established for the administration of the Special Needs Housing Trust Fund established pursuant to section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with other State agencies.

"Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized

standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

"Major rail station" means a railroad station that is located within a qualified incentive area and that provides to the public access to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction.

"Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent, but less than 80 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the index by the Department of Community Affairs ranking New Jersey's municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality.

"Port district" means the portions of a qualified incentive area that are located within:

a. the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or

b. a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Program" means the New Jersey Aspire Program established by section 56 of P.L.2020, c.156 (C.34:1B-324).

"Project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, except the cost of acquiring such lands, buildings, improvements, real or personal property, or any interest

therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not constitute a project cost.

"Project financing gap" means the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the total project cost. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project that satisfies the requirements set forth in section 5 of P.L.2002, c.44 (C.52:38-5).

"Qualified incentive tract" means (i) a population census tract having a poverty rate of 20 percent or more; or (ii) a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Quality childcare facility" is a child care center licensed by the Department of Children and Families or a registered family child care home with the Department of Human Services, operating continuously, which has not been subject to an enforcement action, and which has and maintains a licensed

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capacity for children age 13 years or younger who attend for less than 24 hours a day.

"Redevelopment project" means a specific construction project or improvement or phase of a project or improvement undertaken by a developer, owner or tenant, or both, and any ancillary infrastructure project. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Residential project" means a redevelopment project that is predominantly residential, intended for multi-family residency, and may include a parking component.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

"Technology startup company" means a for-profit business that has been in operation fewer than seven years at the time that it initially occupies or expands in a qualified business facility and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service, which proprietary technology or business method the business intends to move to commercialization. The business shall be deemed to have begun operation on the date that the business first hired at least one employee in a full-time position.

"Total project cost" means the costs incurred in connection with the redevelopment project by the developer until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the incentive grant agreement, for a specific investment or improvement.

"Tourism destination project" means a non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that district.

"Transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208) and also located within a qualified incentive area.

"Transit hub municipality" means a Transit Village or a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force established pursuant to P.L.1985, c.398 (C.27:1A-5).

23. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to read as follows:

C.34:1B-325 Eligibility for incentive award for redevelopment project.

57. a. Prior to March 1, 2027, a developer shall be eligible to receive an incentive award for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

(1) without the incentive award, the redevelopment project is not economically feasible;

(2) a project financing gap exists, or the authority determines that the redevelopment project will generate a below market rate of return;

(3) the redevelopment project, except a film studio, professional stage, television studio, recording studio, screening room, or other infrastructure used for film production, is located in the incentive area;

(4) except for demolition and site remediation activities, the developer has not commenced any construction at the site of the redevelopment project prior to submitting an application, unless the authority determines that the redevelopment project would not be completed otherwise or, in the event the redevelopment project is to be undertaken in phases, the requested incentive award is limited to only phases for which construction has not yet commenced;

(5) the redevelopment project shall comply with minimum environmental and sustainability standards;

(6) the redevelopment project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);

(7) during the eligibility period, each worker employed to perform construction work or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or

trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event a redevelopment project is undertaken by a tenant and the tenant has a leasehold of more than 55 percent of space in the building owned or controlled by the developer, the requirement that each worker employed to perform building service work at the building be paid not less than the prevailing wage shall apply to the entire building;

(8) (a) the redevelopment project shall be completed, and the developer shall be issued a certificate of occupancy for the redevelopment project facilities by the applicable enforcing agency within four years of executing the incentive award agreement, or in the case of a redevelopment project with a project cost in excess of $50,000,000, the incentive phase agreement corresponding to the redevelopment project; or

(b) in the discretion of the authority, a redevelopment project with a project cost in excess of $50,000,000, and that is authorized to be completed in phases, may be allowed no more than six years from the date on which the incentive award agreement is executed to be issued a certificate of occupancy by the applicable enforcement agency;

(9) the developer has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39); and

(10) the developer is not more than 24 months in arrears at the time of application.

b. In addition to the requirements set forth in subsection a. of this section, for a commercial project to qualify for an incentive award the developer shall demonstrate that the developer shall contribute capital of at least 20 percent of the total project cost, except that if a redevelopment project is located in a government-restricted municipality, the developer shall contribute capital of at least 10 percent of the total project cost.

c. In addition to the requirements set forth in subsection a. of this section, for a residential project to qualify for an incentive award, the residential project shall:

(1) have a total project cost of at least $17,500,000, if the project is located in a municipality with a population greater than 200,000 according to the latest federal decennial census;

(2) have a total project cost of at least $10,000,000 if the project is located in a municipality with a population less than 200,000 according to the latest federal decennial census; or

(3) have a total project cost of at least $5,000,000 if the project is in a qualified incentive tract or government-restricted municipality.

d. In addition to the requirements set forth in subsections a. and c. of this section, for a residential project consisting of newly-constructed residential units to qualify for an incentive award, the developer shall reserve at least 20 percent of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.).

e. Prior to the board considering an application submitted by a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer shall certify that any contractors or subcontractors that will perform work at the redevelopment project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

24. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to read as follows:

C.34:1B-326 Application for incentive award.

58. a. Prior to March 1, 2027, for redevelopment projects eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325) for which a developer is seeking an incentive award for the redevelopment project, the developer shall submit an application to the authority and, in the case of a residential project, shall submit an application to the authority and the agency, in a form and manner prescribed in regulations adopted by the authority, in consultation with the agency, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept applications for incentive awards during the grant periods established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-327).

b. The authority shall not consider an application for a commercial project unless the developer submits a letter evidencing support for the

commercial project from the governing body of the municipality in which the commercial project is located with the application.

c. The authority shall review the project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project will result in a net positive benefit to the State, provided that the net benefit analysis shall not apply to capital investment for a food delivery source; a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services that is located in a municipality with a Municipal Revitalization Index distress score of at least 50 lacking adequate access, as determined by the Commissioner of Health; or a residential project. In determining whether a project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for a tax credit that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed redevelopment project for which an award of tax credits is being sought.

d. For a redevelopment project subject to the requirement of subsection c. of this section to be eligible for any tax credits under the program, a developer shall demonstrate to the authority that the award of tax credits will yield a net positive benefit to the State equaling an amount determined by the authority through regulation that exceeds the requested tax credit amount. The developer shall certify, under the penalty of perjury, that all documents submitted, and factual assertions made, to the authority to demonstrate that the award of tax credits will yield a net positive benefit to the State in accordance with this subsection are true and accurate at the time of submission. A redevelopment project located in a government-restricted municipality shall

yield a net positive benefit to the State that exceeds the requested tax credit amount, but the net benefit requirement set by the authority for such redevelopment projects may be up to 35 percentage points lower than the net benefit requirement set by the authority for all other eligible redevelopment projects.

e. If at any time during the eligibility period the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the incentive award.

f. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

25. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to read as follows:

C.34:1B-327 Awarding of incentive awards.

59. a. Prior to March 1, 2027, for redevelopment projects eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325), the authority shall award incentive awards based on the order in which complete, qualifying applications were received by the authority. If a developer intends to apply to both the authority and the agency for subsidies, the developer shall notify the agency simultaneously with any application made to the authority. The authority shall transmit its grant determination for such residential projects to the agency along with any information developed by the authority and confirmation of the authority's intent to provide an incentive award or award to the project. Approval of an application by the agency shall be the final determination required for an incentive award for a residential project under this section.

b. Prior to allocating an incentive award to a redevelopment project, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or a developer not in substantial good standing with each department has entered into an agreement with the respective department that includes a practical corrective action plan for the developer, and that the developer shall confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department

of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer. Provided that the developer, and all contractors and subcontractors, are in compliance with this subsection, the authority shall allocate incentive awards to redevelopment projects according to the redevelopment project's score and until either the available incentive awards are exhausted or all redevelopment projects obtaining the minimum score receive an incentive award, whichever occurs first. If insufficient funding exists to fully fund all eligible projects, a project may be offered partial funding.

26. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

C.34:1B-328 Incentive award agreement.

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has a total project cost in excess of $50,000,000.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period, which shall not exceed 15 years for a commercial or mixed-use project and shall not exceed 10 years for a residential project. The incentive award agreement shall provide an estimated date of completion and include a requirement for periodic progress reports, including the submittal of executed financing commitments and documents that evidence site control. If the authority does not receive periodic progress reports, or if the progress reports demonstrate unsatisfactory progress, then the authority may rescind the incentive award. If the authority rescinds an incentive award in

the same calendar year in which the authority approved the incentive award, then the authority may assign the incentive award to another applicant. The incentive award agreement may also provide for a verification of the financing gap at the time the developer provides executed financing commitments to the authority and a verification of the developer's projected cash flow at the time of certification that the project is completed.

c. To ensure the protection of taxpayer money, if the authority determines at project certification that the actual capital financing approach utilized by the project has resulted in a financing gap that is smaller than the financing gap determined at board approval, the authority shall reduce the amount of the tax credit or accept payment from the developer on a pro rata basis. If there is no project financing gap due to the actual capital financing approach utilized by the project, then the developer shall forfeit the incentive award. At the end of the seventh year of the eligibility period, the authority shall evaluate the developer's rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time of board approval. If the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 15 percent, the authority shall require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment. The authority shall require an escrow account to be held by the authority until the end of the eligibility period. Following the final year of the eligibility period, the authority shall determine if the developer's rate of return exceeded the reasonable and appropriate rate of return determined at board approval. If the final rate of return does not exceed the reasonable and appropriate rate of return determined at board approval, the authority shall release to the developer the escrowed funds. If the project final rate of return exceeds the reasonable and appropriate rate of return determined at board approval, the authority shall require the developer to pay up to 20 percent of the amount of the excess, which shall include the funds held in escrow, and such funds shall be deposited in the State General Fund.

d. The incentive award agreement shall include a requirement that the authority confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action for the developer, and the developer shall confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered

as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The incentive award agreement shall also include a provision that the developer shall forfeit the incentive award in any year in which the developer is neither in substantial good standing with each department nor has entered into a practical corrective action. The incentive award agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into an incentive award agreement for a redevelopment project that includes at least one retail establishment which will have more than 10 employees, at least one distribution center which will have more than 20 employees, or at least one hospitality establishment which will have more than 10 employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment or distribution center enters into a labor harmony agreement with a labor organization or cooperating labor organizations which represent retail or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into an incentive award agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection if the authority determines that the redevelopment project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection:

"Hospitality establishment" means a hotel, motel, or any business, however organized, that sells food, beverages, or both for consumption by patrons on the premises.

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture

with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. (1) For a redevelopment project whose total project cost equals or exceeds $10 million, in addition to the incentive award agreement, a developer shall enter into a community benefits agreement with the authority and the county or municipality in which the redevelopment project is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the redevelopment project is located. Prior to entering a community benefits agreement, the governing body of the county or municipality in which the redevelopment project is located shall hold at least one public hearing at which the governing body shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives of diverse community groups and residents of the county or municipality in which the redevelopment project is located.

(3) At the time the developer submits the annual report required pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the authority, the developer shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the developer fails to provide the certification required pursuant to this paragraph or the authority determines that the developer is not in compliance with the terms of the community

benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind an award or recapture all or part of any tax credits awarded.

(4) A developer shall not be required to enter into a community benefits agreement pursuant to this subsection if the developer submits to the authority a copy of either the developer's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the redevelopment project is located, and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive officer pursuant to rules adopted by the authority.

g. A developer shall submit, prior to the first disbursement of tax credits under the incentive award agreement, but no later than six months following project completion, satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion that begins the eligibility period indicated in the incentive award agreement. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this subsection is true under the penalty of perjury. Claims, records, or statements submitted by a developer to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

h. The incentive award agreement shall include a provision allowing the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement.

27. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read as follows:

C.34:1B-329 Total tax credit.

61. a. Up to the limits established in subsection b. of this section and in accordance with an incentive award agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive award agreement, a developer shall be allowed a total tax credit that shall not exceed:

(1) 60 percent of the total project cost for the new construction of a residential project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency;

(2) 50 percent of the total project cost for a commercial project that is located in a government-restricted municipality, or

(3) 45 percent of the total project cost for any other redevelopment project.

b. The value of all tax credits approved by the authority under the program for a redevelopment project phase shall not exceed:

(1) $60,000,000 per redevelopment project or phase for a residential project that is allowed a tax credit under paragraph (1) of subsection a. of this section, or a redevelopment project or phase that is located in a qualified incentive tract, government-restricted municipality, or municipality with a Municipal Revitalization Index distress score of at least 50; and

(2) $42,000,000 for any other redevelopment project or phase.

28. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to read as follows:

C.34:1B-331 Tax credit transfer certificate.

63. a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for consideration of less than 85 percent subject to the submission of a plan to the authority and the agency to use the proceeds derived from the assignment of tax credits to complete the residential project,

except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 65 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferrer.

29. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

C.34:1B-333 "Transformative project."

65. a. As used in this section, "transformative project" means a redevelopment project that has a project financing gap, that has a total project cost of at least $100,000,000, and that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space or that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production and which is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans.

The criteria developed by the authority shall include, but shall not be limited to:

(1) the extent to which the proposed transformative project would create modern facilities that enhance the State's competitiveness in attracting targeted industries;

(2) (a) for a residential project, the construction of 1,000 or more new residential units;

(b) for a residential project containing less than 1,000 new residential units, the construction of 250 or more new residential units if the project is located in a government-restricted municipality, 350 or more residential units if the project is located in an enhanced area, or 600 or more residential units for all other mixed-use projects;

(c) for a residential project containing less than 1,000 new residential units, the construction of 100,000 square feet or more of retail or commercial space, with the majority being commercial; and

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.); and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting or retaining both employers and skilled workers generally or in targeted industries.

A "transformative project" shall not include a redevelopment project at which more than 50 percent of the premises is occupied by one or more businesses engaged in final point of sale retail.

b. (1) The authority may award incentive awards to transformative projects in accordance with the provisions of sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335).

(2) (a) For transformative projects completed in phases, the developer shall enter into a transformative phase agreement with the authority.

(b) As used in this subsection, "transformative phase agreement" shall mean a sub-agreement of the incentive award agreement that governs the timing, capital investment, and other applicable details of the respective phase of a phased project.

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary, for transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued

certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within eight years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

(4) Notwithstanding the provisions of sections 55 and 60 of P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary, each phase of a transformative project completed in phases shall have a separate eligibility period. After completing each phase, the developer shall submit a certification that the phase is completed. If the authority approves the certification, the tax credit allowed to the developer shall be increased by the tax credit amount corresponding to that phase. Notwithstanding the different eligibility periods for each phase, all conditions and requirements applicable during an eligibility period pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335) shall apply to the entire transformative project until the end of the eligibility period for the last phase.

(5) Notwithstanding the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary, for a transformative project completed in phases, a review of the project financing gap shall be performed at the certification of completion of each phase, and the authority shall re-evaluate the developer's rate of return in the seventh year and at the end of the eligibility period for the last phase, provided that the authority may also re-evaluate the developer's rate of return during the fifth year of any earlier phase.

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production may be located anywhere in the State. No more than two transformative projects receiving an incentive award pursuant to this section shall be located in the same municipality. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects that are predominantly residential shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

d. In determining net benefits for any business or person considering locating in a transformative project and applying to receive from the authority any other economic development incentive subsequent to the award of transformative project tax credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not credit the business or person with any benefit that was previously credited to the transformative project pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333).

e. The authority shall administer the credits awarded pursuant to this section in accordance with the provisions of sections 62 and 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

f. Prior to allocating an incentive award to a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer

shall certify that each contractor or subcontractor performing work at the transformative project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit, as reimbursement for certain project financing gap costs, in an amount not to exceed 40 percent of the total project cost, the total value of the project financing gap, or $350,000,000 whichever is less; provided, however, that for a transformative project that is developed in phases, the $350,000,000 limitation on incentive awards set forth in this subsection shall apply to the total aggregate award for all phases of the transformative project.

30. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to read as follows:

C.34:1B-337 Definitions.

69. As used in sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations, as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or the entity is an organization in a group of organizations under common control, as defined pursuant to subsection (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by sections 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C. ss.1563 and 414).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center.

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is: a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or is a partnership, S corporation, limited liability company, or non-profit corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate. If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

"Capital investment" means expenses that a business or an affiliate of the business incurs, or is incurred on behalf of the business or affiliate by its landlord, following its submission of an application to the authority pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), but prior to the project completion date, as shall be defined in the project agreement, for: a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material

goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

"Commitment period" means a period that is 1.5 times the eligibility period specified in the project agreement entered into pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded up, for each applicable phase agreement.

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on the effective date of P.L.2017, c.221.

"Eligibility period" means the period in which an eligible business may claim a tax credit under the program for a given project phase, beginning with the tax period in which the authority accepts certification of the eligible business that it has met the capital investment and employment requirements of the program for the respective project phase, and extending thereafter for a term of not more than seven years, with the term to be determined at the discretion of the applicant, provided that the term of the eligibility period may consist of nonconsecutive tax years if the applicant elects at any time after the end of the first tax period of the eligibility period to defer the continuation of the eligibility period to a subsequent tax period. The authority may extend the eligibility period one additional tax period to accommodate a prorated payment pursuant to paragraph (2) of subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

"Eligible business" means any business that satisfies the criteria set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time of application for tax credits under the program.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Employment and Investment Corridor" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

a. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan or until the State Planning Commission revises and readopts New Jersey's State Development and Redevelopment Plan and adopts regulations to revise this definition;

b. intersect with portions of: a port district, a qualified incentive tract, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;

c. are the proposed site of a qualified incubator facility, a tourism destination project, or transit oriented development; or

d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space, or any combination of office, laboratory, or industrial space, available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

"Enhanced area" means (1) a municipality that contains an urban transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), (2) the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index, and (3) the three municipalities with the highest percentage of SNAP recipients according to the 2017 Municipal Revitalization Index.

"Full-time employee" means a person:

a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, pursuant to P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

c. who is a resident of another State, but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity agreement with the other state, or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity agreement with the other state.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal, the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement.

A "full-time employee" shall include, but shall not be limited to, an employee that has been hired by way of a labor union hiring hall or its equivalent. 35 hours of employment per week in the State shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except that any person working as an independent contractor or contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for the business shall be deemed a full-time employee if the business demonstrates to the authority that: (a) the person working as an independent contractor for the business works at least 35 hours per week or renders any other standard service generally accepted by custom or practice as full- time employment, and the person is provided with employee health benefits under a health benefits plan authorized pursuant to

State or federal law; and (b) the business provides documentation to the authority to permit the authority to verify the compensation paid to, and the time worked by, the person working as an independent contractor. The business shall provide to the authority an annual report that identifies the number of persons working as independent contractors for the business and their contractual or partnering relationship with the business.

"Full-time employee" shall not include any person who, at the time of project application, works in New Jersey for consideration for at least 35 hours per week for the business, or who renders any other standard of service generally accepted by custom or practice as full-time employment, but who, prior to project application, was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or enhanced area;

d. an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area); or a Designated Center under the State Development and Redevelopment Plan;

e. an area located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

f. an area located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et

seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

g. an area located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, or town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

h. an area located within a government-restricted municipality;

i. an area located within land approved for closure under any federal Commission on Base Realignment and Closure action;

j. an area located within an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive), so long as that area designated as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) is located within: (1) a designated center under the State Development and Redevelopment Plan; (2) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Development and Redevelopment Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas; (3) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals; or (5) any area on which an existing tourism destination project is located; or

k. an area located in a qualified opportunity zone.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law, character, or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education that is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does

not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis, or other professional persons in the field of religion.

"Industrial premises" or "industrial space" means premises or space in which at least 51 percent of the square footage will be or has been used for the assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed, manufactured, or any combination thereof, by the business at the qualified business facility; for the breaking or demolishing of finished or partially finished products; or for the production of oil or gas or the generation or transformation of electricity.

"Industrial use" means assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity. "Industrial use" includes farming purposes as that term is defined under 26 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

"Infrastructure Fund" means the Recovery Infrastructure Fund established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-520) to fund local infrastructure improvements.

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of

labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

"Major rail station" means a railroad station that is located within a qualified incentive area and that provides to the public access to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mega project" means a project of special economic importance, as determined pursuant to regulations adopted by the board, as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry, as determined by the authority pursuant to rules and regulations promulgated to implement sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction.

"Municipal Revitalization Index" means the index by the Department of Community Affairs ranking New Jersey's municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality.

"New full-time job" means an eligible position created by a business that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Other eligible area" means the portions of the incentive area that are not located within a distressed municipality, or the employment and investment corridor.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Port district" means the portions of an incentive area that are located within the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established

pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the Emerge Program established by section 70 of P.L.2020, c.156 (C.34:1B-338).

"Project" means the capital investment at a qualified business facility and the employment commitment pursuant to the project agreement.

"Project agreement" means the contract executed between an eligible business and the authority pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and conditions under which the eligible business may receive the incentives authorized pursuant to the program.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project that satisfies the requirements set forth in section 5 of P.L.2002, c.44 (C.52:38-5).

"Project phase agreement" means a sub-agreement of the project agreement that governs the timing, capital investment, employment levels, and other applicable details of the respective phase.

"Public research university" means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

"Qualified business facility" means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location, unless the building, complex of buildings or structural components of buildings, and all machinery and equipment therein, are used in connection with the operation of a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Qualified incubator facility" means a commercial building located within an incentive area: that contains 5,000 or more square feet of office, laboratory, or industrial space; that is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which at least 50 percent of the gross leasable area is

restricted for use by one or more technology startup companies during the commitment period.

"Qualified opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Quality child care facility" is a child care center licensed by the Department of Children and Families or a registered family child care home with the Department of Human Services, operating continuously, which has not been subject to an enforcement action, and which has and maintains a licensed capacity for children age 13 years or younger who attend for less than 24 hours a day.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee, but which, because of a potential relocation by the business or is at risk of being lost to another state or country. For the purposes of determining the number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

"Small business" means a business engaged primarily in a targeted industry with fewer than 100 employees, as determined at the time of application.

"State college" means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Technology startup company" means a for-profit business that has been in operation fewer than seven years at the time that it initially occupies or expands in a qualified business facility and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service, which proprietary technology or business method the business intends to move to commercialization. The

business shall be deemed to have begun operation on the date that the business first hired at least one employee in a full-time position.

"Tourism destination project" means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established tourism district with a significant impact on the economic viability of that tourism district.

"Transit oriented development" means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Government-restricted municipality, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

"Transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), and that is also located within an incentive area.

"Transit hub municipality" means a Transit Village or a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.

31. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to read as follows:

C.34:1B-339 Application for tax credits.

71. a. Beginning on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for tax credits under the program, a business's chief executive officer, or equivalent officer, shall demonstrate to the authority at the time of application that:

(1) the business will make, acquire, or lease a capital investment at the qualified business facility equal to or greater than the applicable amount set forth in subsection b. of this section;

(2) the business will create or retain new and retained full-time jobs in the State in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(3) the qualified business facility is located in a qualified incentive area;

(4) the award of tax credits will be a material factor in the business's decision to create or retain the number of new and retained full-time jobs set forth in its application;

(5) the award of tax credits, the capital investment resultant from the award of tax credits, and the resultant creation and retention of new and retained full-time jobs will yield a net positive benefit to the State equaling at least 400 percent of the requested tax credit allocation amount, or for a phased project the requested tax credit allocation amount for the initial phase, and on a cumulative basis each phase thereafter, which determination shall be calculated prior to considering the value of the requested tax credit under the program and shall be based on the benefits generated during the period of time from approval through the end of the commitment period, or through the end of the longer period of extended commitment that the business may elect for purposes of receiving credit for benefits projected to occur after the expiration of the commitment period, except that:

(a) an award of tax credits to a business for a qualified business facility located in a distressed municipality or an enhanced area shall yield a net positive benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 300 percent of the requested tax credit amount;

(b) an award of tax credits to a business for a qualified business facility located in a government-restricted municipality, or for a mega project, shall yield a net positive benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 200 percent of the requested tax credit amount;

(c) the net economic benefits shall be evaluated on a present value basis with the requested tax credit allocation amount discounted to present value at the same discount rate as the benefits from capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs as provided in subparagraph (d) of this paragraph; and

(d) a business may elect a period of extended commitment beyond the commitment period for which time the economic benefits shall be creditable to the determination of the net economic benefit of the project, and a business

electing a period of extended commitment and failing to maintain the project through the expiration of that extended commitment period shall be obligated to repay a proportion of the incremental benefits received on account of having extended the commitment period, taking into consideration the number of years of extended commitment during which the business maintained the project;

(e) in making the determination required pursuant to this paragraph, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the business's State or local tax liability, and the business's chief executive officer or equivalent officer shall certify, under the penalty of perjury, that all documents submitted, and factual assertions made, to the authority to demonstrate that the award of tax credits will yield a net positive benefit to the State in accordance with this paragraph are true and accurate at the time of submission;

(f) If, during the term of the program, the methodology used by the authority in projecting benefits of a project in making the determination required pursuant to this paragraph is modified, the respective percentages by which the benefits must exceed the requested tax credit allocation amount set forth pursuant to this paragraph (5) may be adjusted to ensure consistent application of the respective thresholds in this paragraph (5) applied to each application;

(6) the qualified business facility shall be in compliance with minimum environmental and sustainability standards;

(7) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); and

(8) (a) each worker employed to perform construction work or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

(i) the work performed under the contract is performed at a qualified business facility owned by a landlord that is not a business receiving authority assistance;

(ii) the landlord is a party to the construction contract, building services contract, or both; and

(iii) the qualified business facility constitutes a lease of less than 35 percent of the entire facility at the time of contract and under any agreement to subsequently lease the qualified business facility.

(b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-5.1), nothing in this paragraph shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after the authority has issued the first certificate of compliance pursuant to paragraph (2) of subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

b. (1) The minimum capital investment required to be eligible under the program shall be as follows:

(a) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development portion of the premises for continued similar use by the business, a minimum investment of $20 per square foot of gross leasable area;

(b) for the new construction of an industrial, warehousing, logistics, or research and development portion of the premises for use by the business, a minimum investment of $60 per square foot of gross leasable area;

(c) for the rehabilitation, improvement, fit-out, or retrofit of existing portion of the premises that does not qualify pursuant to subparagraph (a) or (b) of this paragraph, a minimum investment of $40 per square foot of gross leasable area;

(d) for the new construction of a portion of the premises that does not qualify pursuant to subparagraph (a) or (b) of this paragraph, a minimum investment of $120 per square foot of gross leasable area; and

(e) for a small business, no new minimum capital investment shall be required, provided the applicant has demonstrated evidence satisfactory to the authority of its intent to remain in the State for the commitment period.

(2) In the event the business invests less than that amount set forth in paragraph (1) of this subsection in the qualified business facility, the business shall donate the uninvested balance to the infrastructure fund established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-520).

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum capital investment amounts required under the program when necessary to respond to the prevailing economic conditions in the State.

c. (1) The minimum number of new or retained full-time jobs required to be eligible under the program shall be as follows:

(a) for a small business, 25 percent growth of its workforce with new full-time jobs within the eligibility period in accordance with subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

(b) for a business engaged primarily in a targeted industry which does not qualify as a small business, 25 new full-time jobs;

(c) for any other business, a minimum of 35 new full-time jobs;

(d) for a business eligible for new full-time jobs under subparagraphs (b) or (c) of this paragraph, the business shall also be eligible for retained full-time jobs in addition to the new full-time jobs if the business will retain 150 retained full-time jobs when locating in a government-restricted municipality, 250 retained full-time jobs when locating in a qualified incentive tract or enhanced area municipality, or 500 retained full-time jobs when locating anywhere else in the State;

(e) for a business not eligible under subparagraphs (b), (c), or (d) of this paragraph and locating in a qualified incentive tract, enhanced area, or government-restricted municipality that will retain 500 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application;

(f) for a business not eligible under subparagraphs (b), (c), (d), or (e) of this paragraph and located in the State that will retain 1,000 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum number of new or retained full-time jobs required under the program when necessary to respond to the prevailing economic conditions in the State.

d. A business that provides and adheres to a plan that demonstrates that the qualified business facility is capable of accommodating more than half of the business's new and retained full-time employees as approved and that certifies, under the penalty of perjury, that not less than 80 percent of the withholdings of new and retained full-time jobs are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. The requirements set forth in this subsection may be modified by the authority to respond to an emergency, disaster, or other factors that result in employees of an eligible business having to work from a location other than the qualified business facility.

e. The chief executive officer of the business, or an equivalent officer, shall certify that all factual representations made by the business to the

authority pursuant to subsection a. of this section are true under the penalty of perjury.

f. A business eligible pursuant to this section may submit an application to the authority in accordance with the provisions of section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to March 1, 2027.

32. Section 72 of P.L.2020, c.156 (C.34:1B-340) is amended to read as follows:

C.34:1B-340 Application for approval of project.

72. a. A business that meets the eligibility criteria in section 71 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax credits for a project under the program shall submit an application for approval of the project to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. (1) Before the board may consider an eligible business's application for tax credits, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the eligible business is in substantial good standing with the respective department, or, if necessary, has entered into an agreement with the respective department that includes a practical corrective action plan for the eligible business. The business entity shall certify that contractors or subcontractors that will perform work at the qualified business facility: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the eligible business. Provided that the eligible business is in substantial good standing, or has entered into such an agreement, and each contractor and subcontractor is in compliance with this paragraph, before the board may approve an eligible business's application for tax credits, the eligible business shall execute a non-binding letter of intent with the chief executive officer of the authority, specifying the amount and terms and conditions of tax credits that the authority is prepared to propose for board approval and that are intended to be a material factor in the decision by the eligible business to create or retain the proposed number of new and retained

full-time jobs, and in which the eligible business certifies such tax credits are a material factor in its decision.

(2) To assist the authority in determining whether the award of tax credits is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program, the chief executive officer of the authority shall require the eligible business to submit, as part of its application, a full economic analysis of all locations under consideration by the eligible business; all lease agreements, ownership documents, or substantially similar documentation for the eligible business's proposed in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for potential out-of-State location alternatives, to the extent they exist. The chief executive officer of the authority may further consider the costs associated with opening and maintaining a business in New Jersey, competitive proposals that the eligible business has received from other states, the prevailing economic conditions, and any other factors that the chief executive officer of the authority deems relevant to assist the authority in determining whether an award of tax credits is a material factor in the eligible business's decision. Based on this information, the authority shall independently verify and confirm the eligible business's assertion that the award of tax credits under the program is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program and, in the case of retained full-time jobs, the jobs are actually at risk of leaving the State, before the authority may award the eligible business any tax credits under the "Emerge Program Act," sections 70 through 81 of P.L.2020, c.156 (C.34:1B-338 et al.). The chief executive officer of the eligible business, or an equivalent officer, shall certify that all factual representations made by the business to the authority pursuant to this paragraph are true under the penalty of perjury.

c. An eligible business shall pay to the authority the full amount of the direct costs of an analysis concerning the eligible business's application for a tax credit, which a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall have the discretion to waive all or a portion of the costs of application for a small business.

d. If at any time during the eligibility period the authority determines that the eligible business made a material misrepresentation on the eligible business's application, the eligible business shall forfeit all tax credits awarded under the program, which shall be in addition to any other criminal or civil penalties to which the business and the officer may be subject.

e. If circumstances require an eligible business to amend its application to the authority, then the chief executive officer of the eligible business, or an equivalent officer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

f. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

33. Section 73 of P.L.2020, c.156 (C.34:1B-341) is amended to read as follows:

C.34:1B-341 Project agreement.

73. a. Following approval by the board, but before the issuance of tax credits, the authority shall require an eligible business to enter into a project agreement. The terms of the project agreement shall be consistent with the eligibility requirements of section 71 of P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but shall not be limited to, the following:

(1) (a) a detailed description of the proposed project which will result in job creation or retention, and the number of new and retained full-time jobs that are approved for tax credits;

(b) for a phased project, a project phase agreement for which each phase identifies a description of the phase, the expected capital investment and number of new full-time jobs, and the time following acceptance of the project agreement when each phase is to begin and be completed, with the awarding of tax credits under the project agreement to be predicated on the number of full-time jobs created through the fulfillment of each project phase agreement;

(2) the eligibility period of the tax credits or, for a phased project, the eligibility period of the tax credits for each phase;

(3) personnel information that will enable the authority to administer the program;

(4) a requirement that the eligible business maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time jobs as required by this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not remain in compliance with this provision for the required term or significantly reduces the number of full-time employees, or the salaries thereof, to which the eligible business certified at the commencement of the eligibility period;

(5) a method for the eligible business to certify that it has met the capital investment and employment requirements of the program set forth in subsections b. and c. of section 71 of P.L.2020, c.156 (C.34:1B-339) and to

report annually to the authority the number of new and retained full-time employees, and the salaries thereof, for which the tax credits are to be allowed;

(6) representations that the eligible business is in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury or has entered into an agreement with the departments that includes a practical corrective action plan, and the project complies with all applicable laws, and specifically, that the project does not violate any environmental law;

(7) a provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary;

(8) a provision that the chief executive officer of the authority receives annual reports from the eligible business and that allows the authority to confirm that the eligible business is in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury, or has entered into an agreement with the respective department that includes a practical corrective action plan. As part of the annual reports required by this paragraph, the eligible business shall confirm that each contractor or subcontractor performing work at the qualified business facility: (a) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (c) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. If the eligible business does not submit the report required under this paragraph, if the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury advises that the eligible business is neither in substantial good standing nor has entered into a practical corrective action plan, or if the eligible business fails to confirm that each contractor or subcontractor is in compliance with this paragraph, then the eligible business may forfeit the issuance of tax credits, pending resolution of the underlying violations or other issues;

(9) a requirement for the eligible business to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health;

(10) a provision permitting the authority to amend the agreement; and

(11) a provision establishing the conditions under which the authority, the eligible business, or both, may terminate the agreement.

b. (1) For a project whose total project cost equals or exceeds $10 million, in addition to the project agreement, an eligible business shall enter into a community benefits agreement with the authority and the county or municipality in which the qualified business facility is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the qualified business facility is located. Prior to entering a community benefits agreement, the governing body of the county or municipality in which the qualified business facility is located shall hold at least one public hearing at which the governing body shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives from community groups and residents of the county or municipality in which the qualified business facility is located.

(3) At the time the eligible business submits the annual report required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to the authority, the eligible business shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the eligible business fails to provide the certification required pursuant to this paragraph or the authority determines that the eligible business is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind the award or recapture all or part of any tax credits awarded.

(4) An eligible business shall not be required to enter into a community benefits agreement pursuant to this subsection if the eligible business submits to the authority a copy of the either eligible business's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the project is located and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive officer pursuant to rules adopted by the authority.

34. Section 74 of P.L.2020, c.156 (C.34:1B-342) is amended to read as follows:

C.34:1B-342 Site plan approval, financing, site control for qualified business facility.

74. a. Following board approval within a time established by the authority and prior to the authority and an eligible business executing a project agreement, the eligible business shall demonstrate that it has obtained site plan approval and has committed financing for, and site control of, the qualified business facility. If the eligible business obtained site control of the qualified business facility prior to the execution of the letter of intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then the authority may rescind approval of the award of tax credits, unless the eligible business disclosed the fact that the eligible business had obtained the site prior to executing the letter of intent and the authority determines that the award of tax credits was still a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program. The eligible business shall provide an estimated date of completion and shall submit periodic progress reports. The authority may rescind an award of tax credits if an eligible business fails to provide the information required under this section within the period indicated in the approval of the tax credits by the board. The authority may rescind an award of tax credits under the program if a project fails to advance in accordance with the project agreement.

b. Upon completion of the capital investment and employment requirements of the program, an eligible business shall submit to the authority certifications evidencing that the eligible business has satisfied the conditions relating to the capital investment and employment requirements of the project agreement with supporting evidence satisfactory to the authority. Absent extenuating circumstances and the written approval of the authority, the eligible business shall submit the certification within three years following the date of approval of the application. The authority may grant two six-month extensions of the deadline; provided that the date of certification shall not occur later than four years following the date of approval of the application by the authority; provided further that the authority may grant one additional extension not to exceed one year upon a finding by the authority that: (1) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (2) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (3) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay. To qualify for the one-year extension, the eligible business

shall provide timely notice to the authority of the delay within 30 days after the eligible business has actual or constructive knowledge of the delay, and shall provide periodic reports, not less than every 30 days, of the status of the delay and the steps the eligible business is taking to mitigate or overcome the delay.

c. If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided, however, that: (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

d. The chief executive officer of the eligible business, or an equivalent officer, shall certify that the information provided pursuant to this section is true under the penalty of perjury.

35. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to read as follows:

C.34:1B-343 Total amount of tax credit.

75. a. The total amount of the tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through g. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period, notwithstanding any other provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.

b. The base amount of the tax credit for each new or retained full-time job for an eligible business shall be as follows:

(1) for a qualified business facility located within a government-restricted municipality, or which is a mega project, $4,000 per year;

(2) for a qualified business facility located within an enhanced area, $3,500 per year;

(3) for a qualified business facility located within a distressed municipality, $3,000 per year;

(4) for a project in a qualified opportunity zone or an employment and investment corridor, $2,500 per year; and

(5) for a project in other eligible areas, $500 per year.

c. (1) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased with the following bonuses:

(a) for an eligible business with a qualified business facility located in a municipality with a Municipal Revitalization Index distress score greater than 50, an increase of $1,000 per year;

(b) for an eligible business with a qualified business facility at which the capital investment in industrial or research and development premises for industrial or research and development use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339), an increase of $500 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 40 percent, with a maximum increase of $1,500 per year, unless the project qualifies as a mega project or the qualified business facility is located in a government-restricted municipality, in which case the maximum increase is $5,000 per year;

(c) for an eligible business with large numbers of new full-time jobs during the eligibility period, the increases shall be in accordance with the following schedule:

(i) if the number of new full-time jobs is between 251 and 400, $500 per year;

(ii) if the number of new full-time jobs is between 401 and 600, $750 per year;

(iii) if the number of new full-time jobs is between 601 and 800, $1,000 per year;

(iv) if the number of new full-time jobs is between 801 and 1,000, $1,250 per year;

(v) if the number of new full-time jobs is in excess of 1,000, $1,500 per year;

(d) for an eligible business that annually funds an industry-specific training program, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public an industry-specific training program, an increase of $500 per year; provided, however, that if the training program is provided by a State educational institution that is within 10 miles of the qualified business facility, then the increase shall be $1,000 per year;

(e) for an eligible business that qualifies as a small business, an increase of $500 per year;

(f) for an eligible business with new full-time jobs and retained full-time jobs at the qualified business facility with a median salary in excess of the existing median salary for the county in which the project is located, or, in the

case of a project in a government-restricted municipality, a business with employees in full-time positions at the project with a median salary in excess of the median salary for the government-restricted municipality, an increase of $200 per year during the eligibility period for each 35 percent by which the project's median salary levels exceeds the county or government-restricted municipality median salary, with a maximum increase of $1,000 per year;

(g) (Deleted by amendment, P.L.2021, c.160);

(h) for an eligible business engaged primarily in a targeted industry, an increase of $500 per year;

(i) for an eligible business with a qualified business facility located in a qualified incubator facility, an increase of $500 per year;

(j) for an eligible business that enters into a labor harmony agreement in accordance with section 69 of P.L.2020, c.156 (C.34:1B-337), an increase of $2,000 per year for the portion of the project subject to that labor harmony agreement; provided further that an eligible business receiving a bonus under this subparagraph may exceed the limitation applicable to the eligible business pursuant to subsection d. of this section by an amount not to exceed $1,000;

(k) for an eligible business that provides its employees access to child care either through an on-site quality child care facility free of charge to its employees or through reimbursements paid by the eligible business to its employees for the cost of child care in accordance with standards adopted by the authority, an increase of $1,000 per year;

(l) for an eligible business that enters, or has previously entered, into an active partnership with a re-entry program for the purpose of identifying and promoting employment opportunities at the eligible business for former inmates and current inmates leaving the corrections system, and that hires at least one active participant in the re-entry program as a full-time employee, an increase of $500 per year;

(m) for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Silver" rating standards but does not exceed "Gold" rating standards or completes substantial environmental remediation, an additional increase of $250 per year, or for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Gold" rating standards, an additional increase of $500 per year;

(n) for an eligible business in a targeted industry with a qualified business facility that is used by the eligible business to conduct a full time collaborative relationship with a college or university, including, but not limited to, a doctoral university, an increase of $1,000 per year;

(o) for an eligible business with a project that generates solar, geothermal, wind, or any other renewable or distributed energy on site for use within the qualified business facility of an amount that equals at least 50 percent of the qualified business facility electric supply service needs, an increase of $500 per year;

(p) for an eligible business with a marine terminal project in a municipality located outside a government-restricted municipality, but within the geographical boundaries of the South Jersey Port District, an increase of $1,500 per year;

(q) for an eligible business with a qualified business facility located in a qualified opportunity zone, an increase of $1,000 per year; and

(r) for an eligible business if one-third or more of the members of the eligible business's governing board or other governing body self-identify as members of an underrepresented community, which may include Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, Alaska Native or gay, lesbian, bisexual or transgender, an increase of $2,000 per year for each new or retained full-time job. The authority shall work with the Chief Diversity Officer or other State entities to ensure that the bonus provided under this subparagraph is implemented faithfully and in compliance with law.

(2) The authority shall not award a bonus to an eligible business with full-time jobs at the qualified business facility that pay less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

(3) The authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), criteria in addition to, or in place of, the criteria set forth in paragraph (1) of this subsection in response to the prevailing economic conditions in the State.

d. The gross amount of the tax credit available to an eligible business for each new or retained full-time job shall be the sum of the base amount set forth in subsection b. of this section and the various additional bonus amounts for which the business is eligible pursuant to subsection c. of this section, subject to the following limitations:

(1) for a mega project or a project in a government-restricted municipality, the gross amount for each new or retained full-time job shall not exceed $8,000 per year;

(2) for a qualified business facility located within an enhanced area, the gross amount for each new or retained full-time job shall not exceed $6,000 per year;

(3) for a qualified business facility within a distressed municipality, the gross amount for each new or retained full-time job shall not exceed $5,000 per year;

(4) for a qualified business facility in a qualified opportunity zone or an employment and investment corridor, the gross amount for each new or retained full-time job shall not exceed $4,000 per year; and

(5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed $3,000 per year.

e. The authority shall reduce the gross amount of tax credits per full-time job: (1) if the median salary of new full-time jobs and retained full-time jobs subject to the project agreement is less than the existing median salary for the county in which the qualified business facility is located; or (2) for a project located in a government-restricted municipality, if the median salary of new full-time jobs and retained full-time jobs subject to the project agreement is less than the existing median salary for the municipality in which the qualified business facility is located. The authority shall reduce the gross amount of tax credits per full-time job by an amount, in percentage points, equal to the percentage the median salary of new full-time jobs and retained full-time jobs subject to the project agreement is below the existing median salary for the county or government-restricted municipality in which the qualified business facility is located. The authority shall not award a tax credit to an eligible business if the median salary of new full-time jobs and retained full-time jobs that would otherwise be subject to the project agreement is 30 percent or more below the relevant existing median salary for the county or government-restricted municipality in which the qualified business facility is located.

f. After the determination by the authority of the gross amount of tax credits for which an eligible business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the eligible business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and (2) for each retained full-time job, the eligible business shall be allowed tax credits equaling 50 percent of the gross amount of tax credits for each retained full-time job.

g. Notwithstanding the provisions of subsections a. through f. of this section to the contrary, for each application approved by the board, the amount of tax credits available to be applied by the business annually shall not exceed an amount determined by the authority to be necessary to induce the project to be sited in New Jersey as determined by the board. The authority shall determine the amount necessary to complete the project

through staff analysis of all locations under consideration by the eligible business and all lease agreements, ownership documents, or substantially similar documentation for the eligible business's proposed in-State locations and potential out-of-State location alternatives, competitive proposals from other states, the prevailing economic conditions, and any other information that the authority deems relevant.

36. Section 76 of P.L.2020, c.156 (C.34:1B-344) is amended to read as follows:

C.34:1B-344 Forfeit of credit.

76. a. (1) If, in any tax period, an eligible business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under the program, then the eligible business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the eligible business's Statewide workforce to the threshold levels required by this subsection has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If the annual report filed by an eligible business pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the number of new full-time employees employed by the eligible business subject to the project agreement, or the salaries thereof, was reduced by more than 10 percent of the number of new full-time employees, or salaries thereof, in the annual report of the prior year, or the project agreement if the annual report is the first such report filed, then the authority may reevaluate the net positive economic benefit of the project and reduce the size of the award accordingly. This reduction shall not affect any recapture under subsection f. of this section.

b. If, in any tax period, the number of full-time employees employed by the eligible business subject to the project agreement, or the salaries thereof, drops below 80 percent of the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement or the project phase agreement, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the eligible business subject to the project agreement to 80 percent of the number of jobs specified in the project agreement or project

phase agreement or the restoration of 80 percent of the salaries specified in the project agreement is reviewed and approved by the authority.

c. Except for an eligible business that is a small business engaged primarily in a targeted industry:

(1) If the qualified business facility is sold in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller, provided, however, that any tax credits of tenants shall remain unaffected. The seller shall forfeit all tax credits for the tax period in which the sale occurs and all subsequent tax periods, provided, however, that an eligible business may change the location of the qualified business facility if the new facility:

(a) meets all applicable location qualifying criteria and has gross leasable area not less than the gross leasable area of the qualified business facility initially approved by the authority and the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program; or

(b) does not meet all applicable location qualifying criteria or has less gross leasable area than the gross leasable area of the qualified business facility initially approved by the authority, if the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program, provided that the authority shall require a cost comparison of the originally approved location and the alternate qualified business facility illustrating the respective economics of the project which reflect occupancy at the alternate proposed qualified business facility location for the remaining duration of the commitment period and shall re-calculate the net economic benefit of the project to reflect the economics of occupancy at the alternate proposed location for the remaining duration of the net benefit test period in lieu of the economics of continuing occupancy at the qualified business facility proposed to be vacated, and provided further that the award of tax credits shall be reduced consistent with the variations in qualifying criteria for the alternate qualified business facility location as well as in a manner consistent with the revised net economic benefit calculation.

In the event that the modified project economics materially deviate from the economics of the initial approval in a manner that undermines the recommendation of approval made by the staff of the authority at the time of the initial approval, then the business requesting to re-locate a qualified business facility shall be required to obtain the approval of the members of the authority.

(2) If a tenant subleases its tenancy in whole or in part during the eligibility period, the new tenant shall not acquire the tax credits of the sublessor, and the sublessor shall forfeit all tax credits for any tax period of

its sublease in which the sublessor, in continued occupation of a portion of the qualified business facility, fails to maintain the number of jobs required for the sublessor to earn tax credits for the tax period or fails to independently satisfy the minimum capital investment or sustainability requirements for the program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-339). Provided, however, if the capital investment of the sublessor in the occupied portion of the qualified business facility is below the project minimum capital investment as set forth in section 71 of P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital investment made by or on behalf of the new tenant in the subleased portion of the qualified business facility, so long as that capital investment is not the subject of an independent application under an incentive program with the authority.

d. A small business may move its qualified business facility provided that the business remains in New Jersey during the commitment period.

e. The authority may require a small business to submit a growth plan, which specifies the number of new full-time employees in the State that the eligible business will hire each year of the eligibility period; provided that by the end of the eligibility period, the eligible business shall have a minimum of 25 percent growth of its workforce with new full-time jobs. If the eligible business meets the number of new full-time employees specified in the growth plan each year of the eligibility period, then the eligible business shall be entitled to an increased credit amount for that tax period, and each subsequent tax period, for each additional full-time employee added above the number of full-time employees certified, until the full-time employees number the maximum number projected for the final year of the eligibility period. Failure to meet the projections in any year shall not constitute a default but shall cause the authority to reduce the award in accordance with a schedule attached to the project agreement.

f. (1) The authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with the requirements of a project agreement for the duration of the commitment period. A recapture pursuant to this subsection may include interest on the recapture amount, at a rate equal to the statutory rate for corporate business or insurance premiums tax deficiencies, plus any statutory penalties, and all costs incurred by the authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection. Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded.

(2) If all or part of a tax credit sold or assigned pursuant to section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture, then the authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate. The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business.

(3) Any funds, net of costs incurred by the authority, recaptured pursuant to this subsection, including penalties and interest, shall be deposited into the General Fund of the State.

g. A business may include an affiliate for any period, provided that the business provides a valid tax clearance certificate for the affiliate and a verification of the nature of the affiliate relationship during the relevant period, and provided further that the affiliate provides acceptable responses to the authority's legal disclosures inquiries, as determined by the authority. A formal modification of the authority's approval of the project agreement shall not be necessary to add or remove an affiliate after approval or execution of the project agreement.

h. A business may change its name filed with the authority by providing a copy of the filed amendment to the certificate of incorporation or formation, as the case may be, of the business and a valid tax clearance certificate with the business's new name. A formal modification of the authority's approval shall not be necessary to change a business's name after approval or execution of the project agreement.

37. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to read as follows:

C.34:1B-345 Annual report.

77. a. (1) An eligible business which is awarded tax credits under the program shall submit annually, no later than the date indicated in the project agreement, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment period, a report that indicates that the eligible business continues to maintain the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement. As part of the annual report required pursuant to this subsection, an eligible business shall provide to the authority a copy of its applicable New Jersey tax return showing business income and withholdings as a condition of its continuation in the program, and the quarterly wage report required under R.S.43:21-14 submitted to the Department of Labor and Workforce Development together with an annual payroll report showing: (a) the new full-time jobs which were created in

accordance with the project agreement, and (b) the new full-time jobs created during each subsequent year of the commitment period. The failure of an eligible business to submit to the authority a copy of its annual payroll report or submit the quarterly wage report in accordance with the provisions of this subsection during the eligibility period shall result in the forfeiture of the award for that year. An eligible business shall explain, in the reports required by this subsection, the reason for any discrepancies between the annual payroll report submitted by the eligible business and the quarterly wage report. The chief executive officer of the eligible business, or an equivalent officer, shall certify that the information provided pursuant to this paragraph is true under the penalty of perjury. Claims, records, or statements submitted by an eligible business to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(2) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the eligible business and the director a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability. The authority shall pro rate the tax credit for the first and last years of the eligibility period based on the number of full months the project was certified in the year the eligible business first certifies.

b. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

(2) An eligible business shall forfeit the credit amount for any tax period for which the eligible business's documentation remains uncertified as of the date for certification indicated in the project agreement, although credit amounts for the remainder of the years of the eligibility period shall remain available to the eligible business.

c. Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

d. (1) Upon receipt by the director of the certificate of compliance, the director shall allow the eligible business a tax credit. The eligible business may apply the credit allowed by the director against the eligible business's tax liability for the tax period in which the director allowed the tax credit or may carry forward the credit for use by the eligible business in any of the next seven successive tax periods, which credit shall expire thereafter.

(2) (a) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

(b) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe. With respect to credits passed through to a person subject to tax liability due pursuant to section 2 or 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply credits against the person's tax liability without the provision of a tax credit certificate to the Division of Taxation in the Department of the Treasury for the tax period accompanying the person's tax return and the person shall be considered the tax certificate holder and be subject to subparagraph (c) of this paragraph. The authority may recapture all or part of any tax credits claimed by a person pursuant to subparagraph (b) of this paragraph with penalties and interest from the person or the business in the event the Division of Taxation in the Department of the Treasury does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period.

(3) The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(4) In lieu of applying any credit certificate or credit transfer certificate against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit transfer certificate may be surrendered to the Division of Taxation in the Department of the Treasury for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the credit certificate or credit transfer certificate to the taxpayer surrendering such certificate occurred at least two years prior to the date of surrender and the credit certificate or credit transfer certificate has not been sold or assigned previously.

38. Section 79 of P.L.2020, c.156 (C.52:27D-520) is amended to read as follows:

C.52:27D-520 "Recovery Infrastructure Fund."

79. a. The authority shall establish a dedicated fund to be known as the "Recovery Infrastructure Fund." Money in the fund shall be dedicated to the purpose of funding local infrastructure, which shall include:

(1) buildings and structures, such as schools, fire houses, police stations, recreation centers, public works garages, and water and sewer treatment and pumping facilities;

(2) sidewalks, streets, roads, ramps, and jug handles;

(3) open space with improvements such as athletic fields, playgrounds, and planned parks;

(4) open space without improvements;

(5) public transportation facilities such as train stations and public parking facilities; and

(6) the purchase of equipment considered vital to public safety.

b. The fund shall be credited with money remitted by eligible businesses pursuant to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339).

c. Money remitted to the fund by an eligible business pursuant to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339) shall be earmarked for use on local infrastructure projects in the municipality in which the eligible business's project is located.

d. A municipality shall apply to the authority, in a form and manner prescribed by the authority, for disbursements from the Recovery Infrastructure Fund. The authority, in consultation with the Department of Community Affairs, shall review and approve applications for disbursements of money from the fund pursuant to the provisions of this section and the rules and regulations promulgated by the authority pursuant to paragraph (1) of subsection f. of this section.

e. The Department of Community Affairs shall coordinate with the authority and other boards, commissions, institutions, departments, agencies, State officers, and employees to carry out the local infrastructure projects funded through the Recovery Infrastructure Fund.

f. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations that the chief executive officer deems necessary to effectuate the purposes of subsections a. through d. of this section, which rules and regulations shall be effective for a period not to exceed 360 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the rules and

regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of the Department of Community Affairs may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations that the commissioner deems necessary to effectuate the purposes of subsection e. of this section, which rules and regulations shall be effective for a period not to exceed 360 days from the date of the filing. The commissioner shall thereafter amend, adopt, or readopt the rules and regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

39. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to read as follows:

C.34:1B-350 Definitions.

83. As used in sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.):

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Eligible microbusiness" means a business enterprise located in the State that produces goods or provides services and has fewer than 10 full-time employees and annual gross revenue of less than $1,500,000 at the time of application for a loan under the program.

"Eligible small business" means any business that satisfies the criteria set forth in subsection b. of section 85 of P.L.2020, c.156 (C.34:1B-352) at the time of application for a grant under the program.

"Program" means the Main Street Recovery Finance Program established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-351).

"Small business" means a business engaged in the conduct of a trade or business in this State that qualifies as a "small business concern" within the meaning of the federal "Small Business Act," Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small business's eligibility assistance from the United States Small Business Administration.

40. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to read as follows:

C.34:1B-351 Main Street Recovery Finance Program.

84. The Main Street Recovery Finance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program for the purpose of providing grants, loans, and loan guarantees to eligible small businesses in accordance with the provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). A business seeking a grant, loan, or loan guarantee under the program shall submit an application to the authority. The authority shall adopt eligibility criteria for the program and may consider a business's benefit to the community in which it is situated and the degree to which the business enhances economic development in communities that have been severely impacted by the COVID-19 pandemic when making awards under the program.

41. Section 85 of P.L.2020, c.156 (C.34:1B-352) is amended to read as follows:

C.34:1B-352 Grants to eligible small businesses.

85. a. As part of the Main Street Recovery Finance Program, the authority shall provide grants to eligible small businesses from the Main Street Recovery Fund, subject to appropriation or the availability of federal funds, provided that the authority shall undertake a disparity study of the relative availability of capital and related banking resources for small businesses and microbusiness that are women- and minority-owned business enterprises in this State and the authority's historic support of such businesses, and, as recommended by the study, shall establish policies, practices, protocols, and, if appropriate, minimum percentages of the fund to be set aside for eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises. Grants awarded pursuant to the program may be used by an eligible small business for capital improvements or to cover operating expenses. The authority may dedicate up to 10 percent of the amount appropriated for the purposes of this section to provide technical assistance grants to for-profit or non-profit entities that are experienced in providing technical assistance services or to eligible microbusinesses to help such eligible microbusinesses in applying for the grants authorized under this section.

b. (1) A small business shall be eligible to receive a grant pursuant to this section if the small business demonstrates to the authority that:

(a) the small business has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and

fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39); and

(b) each worker employed by the small business shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher, except an employee who customarily and regularly receives gratuities or tips shall be paid not less than 120 percent of the minimum wage.

(2) In addition to the requirements of paragraph (1) of this subsection, a small business shall be eligible to receive a grant pursuant to this subsection for capital improvements only if the small business demonstrates to the authority at the time of application that:

(a) any capital improvement in excess of $50,000 and undertaken with grant funds shall comply with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction; and

(b) each worker employed to perform construction work in connection with a capital improvement undertaken with grant funds in excess of $50,000 shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

c. An eligible small business seeking a grant pursuant to this section shall submit an application for approval to the authority in the form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the board may consider an eligible small business's application for grants, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the eligible small business is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the eligible small business. The authority may also contract with an independent third party to perform a background check on the eligible small business. The eligible small business, or an authorized agent thereof, shall certify under the penalty of perjury that any information provided in the application required pursuant to this subsection is true.

d. Following approval of an application, but before the disbursement of grant funds, the authority shall require an eligible small business to enter into a grant agreement. The grant agreement shall specify the amount of the grant to be awarded the eligible small business and the frequency of payments. If the authority determines that an eligible small business made a material misrepresentation on the eligible small business's grant application or the eligible small business has failed to comply with any requirement set forth in subsection b. of this section, then the small business shall return to the authority any grant awarded pursuant to this section.

42. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to read as follows:

C.34:1B-353 Moneys available to eligible lenders.

86. a. As part of the Main Street Recovery Finance Program, the authority shall make loans and grants available from the Main Street Recovery Fund, subject to annual appropriation and the availability of funds, to eligible community development finance institutions, minority depository institutions, and other eligible lenders pursuant to subsection b. of this section and to eligible microbusinesses pursuant to subsection c. of this section, provided that funds shall be made available to eligible microbusinesses certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) in a manner consistent with authority requirements within paragraph a. of section 85 of P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to 10 percent of the amount appropriated for the purposes of this section to provide technical assistance grants to for-profit or non-profit entities that are experienced in providing technical assistance services or to eligible microbusinesses to help such eligible microbusinesses in applying for loan packaging services under the programs authorized to receive grants and loans pursuant to this section.

b. The authority shall provide loans and grants to eligible community development finance institutions, minority depository institutions, and other eligible lenders in accordance with this subsection. Loans and grants made available to eligible community development finance institutions, minority depository institutions, and other eligible lenders pursuant to this paragraph shall be used to strengthen capital structures, leverage additional debt capital, and increase lending and investing in economically disadvantaged communities. The authority shall require an eligible community development finance institution, minority depository institution, or other eligible lender that receives

a grant or loan pursuant to this subsection to enter into an agreement with the authority.

As used in this section, "other eligible lender" means a zone development corporation as defined in section 3 of P.L.1983, c.303 (C.52:27H-62) that is located in a municipality with a population greater than 100,000 or another nonprofit lender with at least 10 years experience lending to microbusinesses.

c. The authority shall provide loans to eligible microbusinesses in accordance with this subsection. Loans made available to eligible microbusinesses pursuant to this subsection may be used for capital improvements, employee training, salaries for new positions, and to pay for day-to-day operating expenditures, including payroll, rent, utilities, insurance, and purchases of goods and services. The authority shall require an eligible microbusiness to enter into a loan agreement. Loans made pursuant to this subsection shall have a term and an interest rate determined by the authority based on conditions currently prevailing in the market. The authority may forgive loans provided to eligible microbusinesses pursuant to this subsection at the authority's discretion. The authority may, through the terms of the loan agreement, establish terms governing the incidence of default by an eligible microbusiness.

d. Prior to March 1, 2025, an eligible community development finance institution, minority depository institution, or other eligible lender seeking a loan or a grant pursuant to subsection b. of this section or an eligible microbusiness seeking a loan pursuant to subsection c. of this section shall submit an application for approval to the authority in the form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the authority may approve an application, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the applicant is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the applicant. The authority may also contract with an independent third party to perform a background check on the applicant. The applicant, or an authorized agent thereof, shall certify under the penalty of perjury that any information provided in the application required pursuant to this subsection is true.

43. Section 87 of P.L.2020, c.156 (C.52:18A-262) is amended to read as follows:

C.52:18A-262 "Main Street Recovery Fund".

87. a. To aid in the economic recovery of those communities most impacted by the COVID-19 pandemic and to better ensure their long-term economic growth, there is created the "Main Street Recovery Fund" to be held by the State Treasurer and administered by the authority. All moneys deposited in the fund shall be held and disbursed in the amounts necessary to fulfill the purposes of providing grants and loans related to an identified program that is administered by the authority pursuant to sections 85 and 86 of P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353), for the purposes enumerated in subsection b. of this section, and for reasonable administrative costs of implementing sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may be credited with pay backs; bonuses; entitlements; money received from the federal government; transfers; grants; gifts; bequests; moneys appropriated by the Legislature; or any other money made available from any source. The State Treasurer, in consultation with the authority, may invest and reinvest any moneys in the fund in the State Treasurer's discretion. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

b. Upon application to the Chief Executive Officer of the New Jersey Economic Development Authority, the authority may make loan guarantees from the fund to leverage private and public lending to help finance small businesses, real estate developments, and manufacturers that are creditworthy but not receiving the financing needed to expand and create jobs. In making loan guarantees under this section, the chief executive officer of the authority shall give due consideration to small businesses and real estate developments in underserved communities throughout the State that have been deeply impacted by the COVID-19 pandemic.

c. (1) The chief executive officer of the authority shall monitor the activities of the beneficiaries of the loan guarantees issued pursuant to this section on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the chief executive officer.

(2) An entity receiving a loan guarantee and the beneficiaries of such loan guarantee under this section shall provide the authority with an annual accounting of how the benefit it received from the fund was applied.

(3) The authority, at the time the annual accounting required under paragraph (2) of this subsection is provided, shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the entity and the beneficiaries are in substantial good standing with the respective

departments, or have entered into an agreement with the respective department that includes a practical corrective action plan.

(4) The entity and beneficiary, or an authorized agent thereof, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

44. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to read as follows:

C.34:1B-355 Working Group on Entrepreneur Zones.

90. a. There is established in the New Jersey Economic Development Authority a Working Group on Entrepreneur Zones for the purpose of making recommendations for the establishment of entrepreneur zones throughout the State. The working group shall consider whether the establishment of entrepreneur zones in which the State provides the tax incentives, regulation relief, and financial support to local entrepreneurs is the most effective way to create jobs in the State. The working group shall identify census tracts within the State that are suitable for designation as an entrepreneur zone.

b. The working group shall consist of 14 members appointed by the chief executive officer of the New Jersey Economic Development Authority.

c. Appointments to the working group shall be made within 30 days after the effective date of P.L.2021, c.160. Vacancies in the membership of the working group shall be filled in the same manner as the original appointments were made.

d. Members of the working group shall serve without compensation, but the authority shall reimburse such members for actual expenses necessarily incurred in the discharge of their duties.

e. Members of the working group shall be subject to the provisions of subsection l. of section 4 of P.L.1974, c.80 (C.34:1B-4).

45. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to read as follows:

C.34:1B-357 Definitions.

93. As used in sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Authority commitment period" means the period for which the authority commits to provide a start-up rent grant for the payment of rent in a collaborative workspace.

"Collaborative workspace" means a business facility certified pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in this State, developed to provide flexible workspaces for early stage innovation economy businesses, and designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared community events and shared workplace accommodations including, but not limited to, kitchens and makerspaces.

"Collaborative workspace commitment period" means a period of months equal to one-half the number of months of the authority commitment period.

"Community event" means an event hosted by a collaborative workspace and accessible to start-up tenant or member businesses, without charge or with nominal charge, organized to support an innovation ecosystem, as defined in section 21 of P.L.2020, c.156 (C.34:1B-289), at the collaborative workspace, including, but not limited to, events such as meet-ups, speaker series, and office hours for lawyers, accountants, consultants, or investors.

"Early stage innovation economy business" means a business that operates within a targeted industry with at least one full-time employee, who is assigned to the collaborative workspace, and fewer than 10 employees overall and with less than $1,000,000 in gross sales over the 12-month period immediately prior to submitting an application for tenancy at a collaborative workspace. To be considered an "early stage innovation economy business" the earliest date of formation for the business must have been not more than seven years prior to utilizing or renting space in, or access to, the collaborative workspace under the program, and the business shall not have previously utilized or rented space in, or access to, another collaborative workspace in the State.

"Full time employee" means a person who is: employed by the start-up tenant or member business for at least 35 hours a week; working as an independent contractor providing critical capabilities to the start-up tenant or member business for at least 35 hours a week; or an owner or partner of the start-up tenant or member business who works for at start-up tenant or member business for at least 35 hours a week.

"Grant agreement" means an agreement between the authority and the owner and operator of a collaborative workspace which memorializes the terms and conditions of the collaborative workspace's participation in the program.

"Program" means the New Jersey Ignite Program established pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Start-up rent grant" means a grant provided by the authority to a collaborative workspace for the rent that would otherwise be due to the collaborative workspace from a start-up tenant or member business for the period of the authority commitment period.

"Start-up tenant or member business" means an early stage innovation economy business that is registered to do business in New Jersey, rents space in, or access to, a collaborative workspace under the program, and enters into an agreement with the owner and operator of the collaborative workspace to rent space in, or access to, the collaborative workspace for an agreed upon period, which shall include the authority commitment period, collaborative workspace commitment period, and start-up tenant or member business commitment period.

"Start-up tenant or member business commitment period" means a period of months equal to the sum of the authority commitment period and the collaborative workspace commitment period.

46. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to read as follows:

C.34:1B-360 Start-up rent grants.

96. a. Up to the limits established in this subsection and in accordance with the grant agreement, the authority shall provide start-up rent grants to the owner and operator of a collaborative workspace through a series of scheduled payments as set forth in the grant agreement. The owner and operator of the collaborative workspace shall utilize the grant funding to provide rent-free space to a start-up tenant or member business that agrees to continue renting space in, or access to, the collaborative workspace for the start-up tenant or member business commitment period. The maximum start-up rent grant that the authority may provide to a collaborative workspace for the tenancy of a single start-up tenant or member business shall not exceed $25,000, including bonus months. The maximum aggregate amount of start-

up rent grants that the authority may provide to an approved collaborative workspace in a calendar year shall not exceed $100,000.

b. The authority may provide a start-up rent grant for the payment of rent for space in, or access to, a collaborative workspace for up to six months; provided, however, if a collaborative workspace or start-up tenant or member business satisfies any of the bonuses set forth in paragraphs (1) through (5) of this subsection, then the authority may provide an additional month of rent for each bonus satisfied by the collaborative workspace or start-up tenant or member business. Additional months of rent provided by the authority for bonus criteria satisfied by a collaborative workspace or start-up tenant or member business shall first be applied to the start-up tenant or member business commitment period, followed by the collaborative workspace commitment period. Any bonus months provided in excess of the combined commitment periods shall be forfeited. The authority may award a bonus month if:

(1) the collaborative workspace is located in a qualified opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

(2) the collaborative workspace is affiliated with a hospital system or a New Jersey university;

(3) the collaborative workspace has been open less than 90 days from the date on which the owner and operator of the collaborative workspace applied to the authority to participate in the program and the collaborative workspace is not in the same location as an existing facility;

(4) the start-up tenant or member business for which the start-up rent grant is paid is certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.); or

(5) the start-up tenant or member business for which the start-up rent grant is paid is the first presence of a foreign company entering into the United States.

c. (1) The owner and operator of a collaborative workspace shall annually certify to the authority, under the penalty of perjury, that it is in compliance with the grant agreement.

(2) In addition to the certification required pursuant to paragraph (1) of this subsection, the authority shall conduct an annual inspection and review of the collaborative workspace and may request documentation evidencing that the collaborative workspace utilized the start-up rent grant it received from the authority in accordance with the requirements of the program and the grant agreement.

d. (1) If a start-up tenant or member business stops occupying or accessing a collaborative workspace before the end of the start-up tenant or

member business commitment period, then the collaborative workspace shall refund to the authority that portion of the start-up rent grant covering any period in which the start-up tenant or member business did not have space in, or access to, the collaborative workspace.

(2) If the authority determines that a collaborative workspace is not in compliance with the requirements of the program or of the grant agreement, then the authority may rescind the business facility's certification as a collaborative workspace and bar the business facility from further participation in the program.

47. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

C.34:1B-362 Combined value of all tax credits.

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of $11.5 billion over a seven-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the seven-year program shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $200 million, except that during each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any of the first six years of the seven-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020,

c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph. During each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the seven-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax credits awarded during the seven-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $350 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the seven-year period; and

(i) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the state under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph

(1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the seven-year period.

48. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to read as follows:

C.34:1B-365 Chief Compliance Officer.

101. a. The New Jersey Economic Development Authority shall employ a Chief Compliance Officer, who shall be appointed by the Chief Executive Officer of the authority.

b. The Chief Compliance Officer shall:

(1) create, maintain, monitor, and coordinate procedures to ensure that all economic development incentive programs, authority employees, and economic development incentive program applicants and recipients comply fully with the requirements of the corresponding economic development incentive program;

(2) on such periodic basis as determined by the authority, arrange for systematic audits of economic development incentive programs for compliance with the laws, regulations, codes, orders, procedures, advisory opinions and rulings concerning those programs;

(3) maintain a central database of information concerning the management of all economic development incentive programs and information on economic development incentive program applicants and recipients to provide for the regular and ongoing reporting, verification, and monitoring of the State's economic development incentive programs;

(4) prior to the adoption of any rule or regulation by the authority or the board related to the general administration of the programs administered by the authority pursuant to section 6 of P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297), section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335), section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156 (C.34:1B-361), or any other regulation specifically related to the recapture of economic development incentive award values,

review and certify that the provisions of program rules or regulations provide the authority with adequate procedures to pursue the recapture of the value of an economic development incentive in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient, and that program rules and regulations are sufficient to ensure against economic development incentive fraud, waste, and abuse; and

(5) refer, to the Economic Development Inspector General and to the Attorney General, information on suspected fraud or abuse identified by the Division of Portfolio Management and Compliance.

c. The Chief Compliance Officer, in consultation with the Department of Labor and Workforce Development and the Department of the Treasury, shall:

Develop, adopt, and implement a corrective action plan within six months of receiving notice of any program deficiency issued by the Economic Development Inspector General, that is designed to enable the authority to properly manage the economic development incentive programs administered by the authority.

d. To ensure against economic development incentive fraud, waste, and abuse, the authority may recapture all or any portion of the value of an economic development incentive awarded pursuant to any of the authority's economic development incentive programs in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient. The authority may incorporate provisions in the regulations for each economic development incentive program that the authority deems necessary to implement this subsection.

49. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to read as follows:

C.34:1B-366 Office of the Economic Development Inspector General.

102. a. There is established, in but not of the Department of the Treasury, the Office of the Economic Development Inspector General, which shall operate independent of the oversight or management of the Chief Executive Officer and the authority. The Office of the Economic Development Inspector General shall operate under the Economic Development Inspector General, who shall be a retired member of the Judicial Branch of the State, to be appointed by the Governor with the advice and consent of the Senate for a term of four years. The Economic Development Inspector General shall direct the work of the Office of the Economic Development Inspector General and have the following general functions, duties, powers, and responsibilities:

(1) to appoint such deputies, directors, assistants, and other officers and employees as may be needed for the Office of the Economic Development Inspector General to meet its responsibilities, and to prescribe their duties and fix their compensation within the amounts appropriated therefor;

(2) to conduct and supervise State government activities relating to State economic development incentive integrity, fraud, and abuse;

(3) to call upon any department, office, division, or agency of State government to provide such information, resources, or other assistance as the Economic Development Inspector General deems necessary to discharge the duties and functions and to fulfill the responsibilities of the Economic Development Inspector General under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369). Each department, office, division, and agency of this State shall cooperate with the Economic Development Inspector General and furnish the Office of the Economic Development Inspector General with the assistance necessary to accomplish the purposes of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

(4) to coordinate activities to prevent, detect, and investigate economic development incentive fraud and abuse among the following: the authority, State and local government officials, and all economic development incentive applicants and recipients;

(5) to recommend and implement policies relating to economic development incentive integrity, fraud, and abuse, and monitor the implementation of any recommendations made by the Office of the Economic Development Inspector General to the authority for the administration of economic development incentives;

(6) to perform any other functions that are necessary or appropriate in furtherance of the mission of the Office of the Economic Development Inspector General; and

(7) to direct an economic development incentive applicant or recipient to cooperate with the Office of the Economic Development Inspector General and provide such information or assistance as shall be reasonably required by the Office of the Economic Development Inspector General.

b. As it relates to ensuring compliance with applicable economic development incentive standards and requirements, identifying and reducing fraud and abuse, and improving the efficiency and effectiveness of economic development incentives, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to establish, in consultation with the authority and the Attorney General, guidelines under which the withholding of payments or exclusion from economic development incentive programs shall be imposed on an economic development incentive applicant or recipient;

(2) to review the utilization of economic development incentives to ensure that economic development incentive funds are appropriately spent to meet the goals and purposes of an individual economic development incentive program;

(3) to review and audit contracts, reports, documentation, claims, and all awards of economic development incentives to determine compliance with applicable laws, regulations, guidelines, and standards, and enhance program integrity;

(4) to consult with the authority to optimize the economic development incentive management information system in furtherance of the mission of the Office of the Economic Development Inspector General. The authority shall consult with the Economic Development Inspector General on matters that concern the operation, upgrade, and implementation of the economic development incentive management information system;

(5) to coordinate the implementation of information technology relating to economic development incentive integrity, fraud, and abuse;

(6) to conduct educational programs for economic development incentive for State and local government officials and economic development incentive recipients designed to limit economic development incentive fraud and abuse; and

(7) to provide notice to the Chief Compliance Officer, appointed pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the Economic Development Inspector General determines that a program deficiency exists in an economic development incentive program administered by the authority and to provide notice to the Chief Executive Officer of the Authority of pending investigations if the Economic Development Inspector General determines that such disclosure is consistent with the public interest in maintaining the integrity of an economic development incentive program administered by the authority or to abate the continuation of fraud or abuse.

c. As it relates to investigating allegations of economic development incentive fraud and abuse and enforcing applicable laws, rules, regulations, and standards, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to conduct economic development investigations concerning any acts of misconduct within economic development incentive programs;

(2) to provide information concerning the economic development investigations of the Office of the Economic Development Inspector General to the Attorney General, law enforcement authorities, and any prosecutor of competent jurisdiction, and endeavor to develop these economic development investigations in a manner that expedites and facilitates criminal prosecutions and the recovery of improperly expended economic development incentives, including the maintenance of detailed records for cases processed by the Economic Development Inspector General. The records shall include: information on the total number of cases processed and, for each case, the agency and division to which the case is referred for an economic development investigation; the date on which the case is referred; and the nature of the suspected fraud or abuse.

(3) to provide information and evidence relating to suspected criminal acts that the Economic Development Inspector General may obtain in carrying out its duties to law enforcement officials when appropriate, and to provide such information to the Attorney General and county prosecutors in order to facilitate criminal economic development investigations and prosecutions;

(4) to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority. The Economic Development Inspector General shall maintain a record of all matters referred to the Attorney General and shall be authorized to disclose information received, as appropriate and as may be necessary to resolve the matter referred, to the extent consistent with the public interest in disclosure, the need for protecting the confidentiality of complainants and informants, and preserving the confidentiality of ongoing criminal economic development investigations. Notwithstanding any referral made pursuant to this subsection, the Economic Development Inspector General may pursue any administrative or civil remedy under the law. A referral by the inspector general to the Attorney General or a prosecutorial authority shall in no way preclude the inspector general from performing its own separate, independent investigation; and

(5) in furtherance of an economic development investigation, to compel at a specific time and place, by subpoena, the appearance and sworn testimony of any person whom the Economic Development Inspector General reasonably believes may be able to give information relating to a matter subject to an economic development investigation:

(a) for this purpose, the Economic Development Inspector General is empowered to administer oaths and examine witnesses under oath, and compel any person to produce at a specific time and place, by subpoena, any documents, books, records, papers, objects, or other evidence that the

Economic Development Inspector General reasonably believes may relate to a matter subject to an economic development investigation; and

(b) if any person to whom a subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers, or other documents required, the Economic Development Inspector General may apply to the Superior Court and the court may order the person to appear and give testimony or produce the books, papers, or other documents, as applicable. Any person failing to obey that order may be held by the court in contempt;

(6) subject to applicable State law, to have full and unrestricted access to all records, reports, audits, reviews, documents, papers, data, recommendations, tax information provided to the authority pursuant to subsection r. of R.S.54:50-9, or other material available to the authority and other State and local government agencies with respect to which the Office of the Economic Development Inspector General has responsibilities under sections 102 through 105 of P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

(7) to solicit, receive, and investigate complaints related to economic development incentive integrity, fraud, and abuse; and

(8) to prepare cases, provide expert testimony, and support administrative hearings and other legal proceedings.

d. As it relates to recovering improperly obtained economic development incentives, imposing administrative sanctions, damages, or penalties, and negotiating settlements to assure that all governmental resources have been properly expended, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to pursue civil and administrative enforcement actions against those who engage in fraud, abuse, or illegal acts perpetrated under economic development incentive programs. These civil and administrative enforcement actions shall include the imposition of administrative sanctions, penalties, suspension of fraudulent or illegal awards, and actions for civil recovery and seizure of property or other assets connected with such economic incentive awards;

(2) to initiate civil suits consistent with the provisions of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369), maintain actions for civil recovery on behalf of the State, and enter into civil settlements;

(3) to require that the authority withhold payments to an economic development incentive applicant or recipient if the applicant or recipient unreasonably fails to produce complete and accurate records related to an economic development investigation that is initiated by the Office of the Economic Development Inspector General with reasonable cause; and

(4) to monitor and pursue the recoupment of economic development incentive awards or portions thereof, damages, penalties, and sanctions.

50. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended to read as follows:

C.54:10A-5.47 Credit against tax; definitions.

106. a. For privilege periods ending in 2020, 2021, and 2022, a taxpayer, upon approval of an application to the authority, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of $10,000 for each qualifying full-time job involved in the manufacture of personal protective equipment in a qualified facility in which the taxpayer made a capital investment during the privilege period.

b. The minimum capital investment in a qualified facility required to be eligible for a credit under this section shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of $10 per square foot of gross leasable area;

(2) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in counties in the State not listed in paragraph (1) of this subsection, a minimum investment of $20 per square foot of gross leasable area;

(3) for the new construction of a premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of $100 per square foot of gross leasable area; or

(4) for the new construction of a premises in counties in the State not listed in paragraph (3) of this subsection, a minimum investment of $120 per square foot of gross leasable area.

c. The minimum number of new or retained qualifying full-time jobs required to be eligible for a credit under this section shall be as follows:

(1) for a qualified facility in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum of five new or 15 retained qualifying full-time jobs; or

(2) for a qualified facility in counties in the State not listed in paragraph (1) of this subsection, a minimum of ten new or 25 retained qualifying full-time jobs.

d. In addition to the amount of credit allowed pursuant to subsection a. of this section, a taxpayer shall be allowed the following tax credits for privilege periods ending in 2020, 2021, and 2022:

(1) $1,000 per qualifying full-time job in the privilege period at a qualified facility that is a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet;

(2) $1,500 per qualifying full-time job in the privilege period at a qualified facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State; and

(3) $1,000 per qualifying full-time job in the privilege period at a qualified facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or county college located within the State.

e. The total credit allowed to a taxpayer pursuant to this section during the privilege period shall not exceed $500,000. A taxpayer shall not be eligible for a tax credit under this section for the same qualifying full-time job for which the taxpayer is receiving a tax credit incentive award under the Emerge Program established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

f. Notwithstanding the minimum tax schedule imposed pursuant to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the amount of the tax credit allowed exceeds the amount of corporation business tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess shall be treated as a refundable overpayment except that interest shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment attributable to this credit amount. The director shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

g. The combined value of all tax credits approved by the authority and the director pursuant to this section and pursuant to section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed $10,000,000 in any State fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

h. An application for the tax credit shall be submitted to the authority in a form and manner prescribed by the chief executive officer of the authority. As a condition of receiving tax credits under this section, an applicant shall be required to commit to employing qualifying full-time jobs for which tax credits are awarded under this section for a period of five years.

i. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the chief executive officer of the authority is authorized to adopt immediately upon filing with

the Office of Administrative Law such rules and regulations which shall be effective for a period not to exceed 360 days following the date of filing and may thereafter be amended, adopted, or readopted by the chief executive officer of the authority in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer of the authority shall consult with the Commissioner of Health related to any specification requirements for what manufactured products are to qualify as personal protective equipment pursuant to this section.

j. As used in this section:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Director" means Director of the Division of Taxation in the Department of the Treasury;

"Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, safeguard equipment, and other equipment designed to protect the wearer from the spread of infection or illness as may be modified from time to time by the board of the authority.

"Qualified facility" means a facility that is:

(1) located in a redevelopment area or rehabilitation area as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

(2) located in a Smart Growth Area as identified by the Office of Planning Advocacy;

(3) a facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State;

(4) a facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or community located within the State; or

(5) a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet.

"Qualifying full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee for the manufacturing of personal protective equipment in this State. The employee shall be employed for at least 35 hours a week and shall be paid employee wages at a rate of not less than $15 per hour, or render any other standard of service generally accepted by custom or practice as full-time employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less than $15 per hour. "Qualifying full-time job" shall not include any person who works as an independent contractor or on a

consulting basis for the business. "Qualifying full-time job" includes only a position for which the taxpayer provides employee health benefits under a health benefits plan authorized pursuant to State or federal law.

51. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

C.34:1B-209.4 Credit to business for wind energy facility; eligibility.

6. a. (1) A business, upon application to and approval from the authority, shall be awarded a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located in the State, pursuant to the restrictions and requirements of this section. The award of a tax credit pursuant to this section shall be structured so that the award shall consist of up to five compliance years, each equaling 20 percent of the total value of the tax credit, to a qualified business over four privilege periods or taxable years in which the business meets the requirements for the minimum number of new, full-time employees. Otherwise eligible businesses with between 150 and 300 new, full-time jobs may receive an award based on a prorated formula developed by the authority, provided that the prorated minimum number of new, full-time jobs required in the fifth year shall be the same as the fourth year. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facility will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section shall not exceed the $350,000,000 made available under section 98 of P.L.2020, c.156 (C.34:1B-362). Credits provided pursuant to this section shall not be applicable to the cap on the credits provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

(2) (a) A business, other than a tenant eligible pursuant to subparagraph (b) of this paragraph, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified wind energy facility, at which the business, including tenants at the qualified wind energy facility, shall employ the minimum number of new, full-time employees, to be eligible for a credit under this section. A business that acquires a qualified wind energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be deemed to have acquired the capital investment made or acquired by the seller.

(b) A business that is a tenant in the qualified wind energy facility, the owner of which has made or acquired capital investments in the facility totaling more than $50,000,000, shall occupy a leased area of the qualified wind energy facility that represents at least $17,500,000 of the capital investment in the qualified wind energy facility at which the minimum number of new, full-time employees in the aggregate are employed, to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified wind energy facility.

(c) The calculation of the number of new, full-time employees required pursuant to subparagraphs (a) and (b) of this paragraph may include the number of new, full-time positions resulting from an equipment supply coordination agreement with equipment manufacturers, suppliers, installers and operators associated with the supply chain required to support the qualified wind energy facility.

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey.

(3) A business shall not be awarded a tax credit pursuant to this section if the business receives a business employment incentive grant pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is awarded a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

b. A business shall apply for the credit by July 1, 2025, and a business shall submit its documentation for approval of its credit amount by July 1, 2028.

c. The credit awarded pursuant to this section shall be administered in accordance with the provisions of subsection c. of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility," as that term is defined in subsection f. of this section.

d. The amount of the credit awarded pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business's leased area, and shall be taken over a five-year period, at the rate of one-fifth of the total amount of the business's credit for each tax accounting or privilege period of the business, beginning with the privilege period or taxable year in which the business is first approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review. The credit amount for any privilege period or taxable year ending after the date 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business's credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the five-year credit period shall remain available. The amount of the credit awarded for a privilege period or taxable year to a business that is a tenant in a qualified wind energy facility shall not exceed the business's total lease payments for occupancy of the qualified wind energy facility for the privilege period or taxable year.

e. The authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this section, including, but not limited to: examples of and the determination of capital investment; the nature of businesses and employment positions constituting and participating in an equipment supply coordination agreement; a determination of the types of businesses that may be eligible and expenses that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit; and provisions for applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

The rules and regulations established by the authority pursuant to this subsection shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted or readopted in accordance with the

provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section: the terms "authority," "business," and "capital investment" shall have the same meanings as defined in section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-208), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility" as defined in this subsection.

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time jobs to be created by the agreement participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Minimum number of new, full-time employees" means:

(1) for the first year, at least a cumulative 100 new, full-time employees compared to the number of full-time employees at the time of application;

(2) for a privilege period or taxable year following the first year, at least a cumulative 150 new, full-time employees compared to the number of full-time employees at the time of application;

(3) for a privilege period or taxable year following the second year, at least a cumulative 200 new, full-time employees compared to the number of full-time employees at the time of application; and

(4) for a privilege period or taxable year following the third year and fourth year, at least a cumulative 300 new, full-time employees compared to the number of full-time employees at the time of application.

"Qualified offshore wind project" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority.

52. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to read as follows:

C.34:1B-7.42a Corporation business tax benefit certificate transfer program.

1. a. The New Jersey Economic Development Authority shall establish within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program established pursuant to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this State with unused amounts of research and development tax credits otherwise allowable which cannot be applied for the credit's tax year due to the limitations of subsection b. of section 1 of P.L.1993, c.175 (C.54:10A-5.24) and unused prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use by other corporation business taxpayers in this State, provided that the taxpayer receiving the surrendered tax benefits is not affiliated with a corporation that is surrendering its tax benefits under the program established under P.L.1997, c.334. For the purposes of this section, the test of affiliation is whether the same entity directly or indirectly owns or controls five percent or more of the voting rights or five percent or more of the value of all classes of stock of both the taxpayer receiving the benefits and a corporation that is surrendering the benefits. The tax benefits may be used on the corporation business tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate to assist in the funding of costs incurred by the new or expanding emerging technology and biotechnology company. For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

b. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by new or expanding emerging technology and biotechnology companies in this State with unused but otherwise allowable carryover of research and development tax credits pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in exchange for private financial assistance to be made by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 80 percent of the amount of the surrendered tax benefit.

Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered prior net operating loss conversion carryover or net operating loss carryover is that amount for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided pursuant to subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to approve the transfer of no more than $75,000,000 of tax benefits in a State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds $75,000,000 for a State fiscal year, the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall not be authorized to approve the transfer of more than $75,000,000 for that State fiscal year and shall allocate the transfer of tax benefits by approved companies using the following method:

(1) an eligible applicant with $250,000 or less of transferable tax benefits shall be authorized to surrender the entire amount of its transferable tax benefits;

(2) an eligible applicant with more than $250,000 of transferable tax benefits shall be authorized to surrender a minimum of $250,000 of its transferable tax benefits;

(3) (Deleted by amendment, P.L.2009, c.90.)

(4) an eligible applicant with more than $250,000 shall also be authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection;

(5) The authority shall establish the boundaries for three innovation zones to be geographically distributed in the northern, central, and southern portions of this State. Of the $75,000,000 of transferable tax benefits authorized for each State fiscal year, $15,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by new and expanding emerging technology and biotechnology companies that operate within the boundaries of the innovation zones or opportunity zones, or for new and expanding emerging technology and biotechnology companies that are certified as a

woman- or minority-owned business at the time of program application, except that any portion of the $15,000,000 that is not so approved shall be available for that State fiscal year for the surrender of transferable tax benefits by new and expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone or opportunity zone, or for a new and expanding emerging technology and biotechnology company that is certified as a woman- or minority-owned business at the time of program application.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds $75,000,000 for a State fiscal year, then the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall limit the total amount of tax benefits authorized to be transferred to $75,000,000 by applying the above method on an apportioned basis.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate as provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits shall be limited to net operating losses and research and development tax credits that the applicant requests to surrender in its application to the authority and shall not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

No application for a corporation business tax benefit transfer certificate shall be approved in which the new or expanding emerging technology or biotechnology company (1) has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board; or (2) is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as

determined on its combined financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board.

For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is $20,000,000. Applications must be received on or before June 30 of each State fiscal year.

The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the amount of a grant of a corporation business tax benefit certificate from the new or expanding emerging technology and biotechnology company having surrendered tax benefits pursuant to this section in the event the taxpayer fails to use the private financial assistance received for the surrender of tax benefits as required by this section or fails to maintain a headquarters or a base of operation in this State during the five years following receipt of the private financial assistance; except if the failure to maintain a headquarters or a base of operation in this State is due to the liquidation of the new or expanding emerging technology and biotechnology company.

c. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by taxpayers under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire surrendered tax benefits approved pursuant to subsection b. of this section which shall be issued in the form of corporation business tax benefit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 80 percent of the amount of the surrendered tax benefit of an emerging technology or biotechnology company in the State. A corporation business tax benefit transfer certificate shall not be issued unless the applicant certifies that as of the date of the exchange of the corporation business tax benefit certificate it is operating as a new or expanding emerging technology or biotechnology company and has no current intention to cease operating as a new or expanding emerging technology or biotechnology company.

The managerial member of a combined group shall be the member that acquires a corporation business tax benefit certificate on behalf of the combined group for use on the combined return.

The private financial assistance shall assist in funding expenses incurred in connection with the operation of the new or expanding emerging technology or biotechnology company in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of the New Jersey Emerging Technology and Biotechnology Financial Assistance Program.

The authority shall require a corporation business taxpayer that acquires a corporation business tax benefit certificate to enter into a written agreement with the new or expanding emerging technology or biotechnology company concerning the terms and conditions of the private financial assistance made in exchange for the certificate. The written agreement may contain terms concerning the maintenance by the new or expanding emerging technology or biotechnology company of a headquarters or a base of operation in this State.

d. (Deleted by amendment, P.L.2009, c.90.)

53. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to read as follows:

C.34:1B-7.42b Definitions relative to certain corporation tax benefit programs.

1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

"Biotechnology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific

commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a health benefits plan authorized pursuant to State or federal law. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology company.

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

"Opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Technology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

54. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

C.52:27D-489e Economic Redevelopment and Growth Grant Program.

5. a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2019, except: (a) a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under category (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021; (b) a developer of a qualified residential project seeking an award of credits toward the funding of its incentive grant under subparagraph (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021; and (c) a developer of a commercial project seeking a State incentive grant under subparagraph (b) of paragraph (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant. Tax credits awarded

to developers who apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) under subparagraph (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed $125,000,000. Incentive grants awarded to developers who apply after the effective date of P.L.2020, c.156 under subparagraph (b) of paragraph (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed $75,000,000.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2019, except: (1) the authority shall not approve an application for a State incentive grant by a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under category (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021 and (2) the authority shall not approve an application for a State incentive grant by a developer under subparagraph (g) of paragraph (3) and subparagraph (b) of paragraph (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021.

d. A developer shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a redevelopment project located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to a developer of a qualified residential project.

55. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

C.52:27D-489f Payment to developer from State.

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project,

or upon any other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Public Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will

be considered a unified project for the purposes of the incentives provided under this section.

b. (1) (a) Up to an average of 75 percent of the projected annual incremental revenues or 85 percent of the projected annual incremental revenues in a Garden State Growth Zone may be pledged towards the State portion of an incentive grant.

(b) State incentive grants not to exceed an aggregate total value of $75,000,000 shall be made available by the authority for applications submitted after the effective date of P.L.2020, c.156, but prior to December 31, 2021, for projects that are predominantly commercial and contain 100,000 or more square feet of office and retail space, or industrial space for purchase or lease, and may include a parking component. The developer of a project seeking an award of credits for a project restricted under this subparagraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156, shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under this subparagraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer, or subcontractor of a developer working at the project, shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

(2) In the case of a qualified residential project or a project involving university infrastructure, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

(3) In the case of a mixed use parking project, if the authority determines that the estimated amount of incremental revenues pledged towards the State

portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then, in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

The value of all credits approved by the authority pursuant to paragraphs (2) and (3) of this subsection shall not exceed $968,000,000, of which:

(a) $250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which $175,000,000 of the credits shall be restricted to the following categories of projects: (i) qualified residential projects located in a Garden State Growth Zone located within the aforementioned counties; and (ii) mixed use parking projects located in a Garden State Growth Zone or urban transit hub located within the aforementioned counties; (iii) and $75,000,000 of the credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the aforementioned counties;

(b) $415,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph; (ii) qualified residential projects located in Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph; (iii) mixed use parking projects located in urban transit hubs or Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph, provided however, an urban transit hub shall be allocated no more than $25,000,000 for mixed use parking projects; (iv) qualified residential projects which are disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph; (v) qualified residential projects in SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph; (vi) $25,000,000 of credits shall be restricted to mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph; (vii) $40,000,000 of credits shall be restricted to qualified residential projects that include a theater venue for the performing arts and do not qualify under subparagraph (a) of this paragraph, which projects are located in a municipality with a population of less than 100,000 according to the latest federal decennial census, and within which municipality is located an urban transit hub and a campus of a public research university, as defined

in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii) $125,000,000 of credits shall be restricted to qualified residential projects and mixed use parking projects in Garden State Growth Zones having a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph;

(c) $87,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof; provided, however, that $20,000,000 of the $87,000,000 shall be allocated to mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph;

(d) (i) $16,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph; and

(ii) an additional $50,000,000 shall be restricted to qualified residential projects which, as of the effective date of P.L.2016, c.51, are located in a city of the first class with a population in excess of 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, and for which an application for the award of tax credits under this subsection was submitted prior to January 1, 2016;

(e) $25,000,000 shall be restricted to projects involving university infrastructure; and

(f) (Deleted by amendment, P.L.2021, c.160)

(g) $125,000,000 shall be restricted to applications submitted after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for residential projects in any county of the State.

(h) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2016 and if approved after September 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary certificate of occupancy for the project no later than December

31, 2023. The developer of a mixed use parking project seeking an award of credits towards the funding of its incentive grant pursuant to subparagraph (c) of this paragraph and if approved after the effective date of P.L.2015, c.217, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under categories (vi) and (viii) of subparagraph (b) of this paragraph shall submit an incentive grant application prior to July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021, and if approved after the effective date of P.L.2017, c.59, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023 provided that the municipality in which the project is located shall have submitted to the chief executive officer of the authority a letter of support identifying up to six projects prior to July 1, 2018. The letter of support is to contain a project scope for each of the projects and may be supplemented or amended from time to time until July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right-of-way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if the credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(i) The developer of a project seeking an award of credits for a project restricted under subparagraph (g) of this paragraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an award of credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under subparagraph (g) of this

paragraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer or subcontractor of a developer working at the project shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

Prior to the board considering an application submitted by a developer for a project restricted under subparagraph (g) of this paragraph, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer, or an authorized agent of the developer, shall certify to the authority that all factual assertions made in the developer's application are true under the penalty of perjury. If at any time the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the award of credits and the authority shall recapture any tax credits awarded to the developer.

(4) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) or paragraph (3) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person who may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or

assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount before considering any further discounting to present value that may be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

c. All administrative costs associated with the incentive grant shall be assessed to the applicant and be retained by the State Treasurer from the annual incentive grant payments.

d. The incremental revenue for the revenues listed in subsection a. of this section shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the State redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. The municipality is authorized to collect any information necessary to facilitate grants under this program and remit that information in order to assist in the calculation of incremental revenue.

56. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to read as follows:

C.52:27D-489h Incentive grant application form, procedures.

8. a. (1) The authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program.

(2) (a) The Local Finance Board, in consultation with the authority, shall develop a minimum standard incentive grant application form for municipal Economic Redevelopment and Growth Grant programs.

(b) Through regulation, the authority shall establish standards for redevelopment projects seeking State or local incentive grants based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

b. Within each incentive grant application, a developer shall certify information concerning:

(1) the status of control of the entire redevelopment project site;

(2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;

(3) local planning and zoning board approvals, as required, for the redevelopment project;

(4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the project costs, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the State including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the project costs, and except with respect to an application by a municipal redeveloper, evaluate and validate the project financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(3) The authority, State Treasurer, and Local Finance Board may act cooperatively to administer and review applications, and shall consult with the Office of State Planning on matters concerning State, regional, and local development and planning strategies.

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee, except for applications submitted on or after January 1, 2018, but before June 30, 2019, which are amended after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), the authority may waive fees.

(5) A developer who has already applied for an incentive grant award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the grant, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing himself or herself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with costs exceeding $200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L.2013, c.161 (C.52:27D-489i).

57. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

C.34:1B-247 Limits on combined value of approved credits.

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. If the

authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period for which the documentation of a business's credit amount remains uncertified as of a date three years after the closing date of that period shall be forfeited, although credit amounts for the remainder of the years of the eligibility period shall remain available to it.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods, and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time within three years of the date of

issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any tax period.

A business may elect to suspend its obligations for the 2020 tax period and, if the public health emergency or state of emergency declared due to the COVID-19 pandemic extends past March 2021, the 2021 tax period, provided that the business shall make such election in writing to the authority before the date the annual report is due and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

(2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(4) In order to respond to the profoundly negative impact of the COVID-19 pandemic on the State's economy and finances, the authority may request a tax certificate holder, at the tax certificate holder's discretion, to defer the application of a credit amount allowed pursuant to this section to a later tax period. Upon request, the authority and the tax certificate holder shall negotiate the terms of the deferral, which shall hold the certificate holder harmless, which will be made in the incentive agreement or as an addendum to the incentive agreement.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been

reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) (a) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit

amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or

(2) the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2022 to terminate the incentive agreement due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected.

h. A business that has entered into an incentive agreement may request, before December 31, 2021, to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

58. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

C.54:10A-5.39b Credit against tax imposed for qualified film production expenses.

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the privilege period for services performed, and goods purchased, through vendors authorized to do business in New Jersey, exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an approved logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 20 percent of the qualified digital media content production expenses of the taxpayer

during a privilege period commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners and New Jersey film-lease partners, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to

subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in addition to the $100,000,000 made available for New Jersey studio partners pursuant to this paragraph, up to an additional $350,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey studio partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio partners and New Jersey film-lease partners shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination. If in any privilege period, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below $50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation pursuant to N.J.A.C.19:31-21.7(c) has been submitted, until a privilege period when the annual average of qualified film production expenses has been restored to $50,000,000. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount

of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $10,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates

under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-

out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but

reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show owns, leases, or otherwise occupies a production facility of no less than 20,000 square feet of real property for a minimum term of 24 months, and invests no less than $3,000,000 in such a facility within a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination

thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey or the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner" means a taxpayer, including any taxpayer that is a member of a combined group under P.L.2018, c.131 (C.54:10A-4.11), that has made a commitment to lease or acquire a New Jersey production

facility with an aggregate square footage of at least 50,000 square feet, which includes a sound stage and production support space such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of $50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more as a "transformative project" pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or

incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of $500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs more than $15,000,000, but less than $50,000,000, in qualified film production expenses in the State, an amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) for a New Jersey studio partner that incurs $50,000,000 or more, but less than $100,000,000, in qualified film production expenses in the State, an amount, not to exceed $25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(3) for a New Jersey studio partner that incurs $100,000,000 or more, but less than $150,000,000, in qualified film production expenses in the State, an amount, not to exceed $40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers,

and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(4) for a New Jersey studio partner that incurs $150,000,000 or more in qualified film production expenses in the State, an amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

59. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

C.54A:4-12b Tax credit for certain film expenses.

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New

Jersey, or the qualified film production expenses of the taxpayer during the taxable year for services performed, and goods purchased, through vendors authorized to do business in New Jersey, exceed $1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 20 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be subject to the same limitations and conditions that apply to the use of a

credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio partners and New Jersey film-lease partners, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in addition to the $100,000,000 made available for New Jersey studio partners pursuant to this paragraph, up to an additional $350,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey studio partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply

against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio partners and New Jersey film-lease partners shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination. If in any taxable year, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below $50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation pursuant to N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year when the annual average of qualified film production expenses has been restored to $50,000,000. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio

partners in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $10,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to

be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than $2,500, but less than $20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than $2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable

year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, sports event, or reality show, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes. "Film" shall not include an

award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey or the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner" means a taxpayer, including any taxpayer that is a member of a combined group under P.L.2018, c.131 (C:54:10A-4.11), that has made a commitment to lease or acquire a New Jersey production facility with an aggregate square footage of at least 50,000 square feet, which includes a sound stage and production support space such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of $50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more as a "transformative project" pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than three film production companies may be designated as a New Jersey studio partner.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross

Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of $500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs more than $15,000,000, but less than $50,000,000, in qualified film production expenses in the State, an amount, not to exceed $15,000,000, of the wages or salaries or other

compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) for a New Jersey studio partner that incurs $50,000,000 or more, but less than $100,000,000, in qualified film production expenses in the State, an amount, not to exceed $25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(3) for a New Jersey studio partner that incurs $100,000,000 or more, but less than $150,000,000, in qualified film production expenses in the State, an amount, not to exceed $40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(4) for a New Jersey studio partner that incurs $150,000,000 or more in qualified film production expenses in the State, an amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

60. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read as follows:

C.58:11B-9 Loans to local governments.

9. a. (1) The trust may make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money.

(2) The trust may make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply project, which the public water utility may lawfully undertake or acquire.

(3) The trust may make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of stormwater management systems.

(4) The trust may make and contract to make loans and provide other assistance to a local government unit or consortia thereof to finance the cost of transportation projects, aviation projects, and marine projects pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), and provided that the federally-funded transportation subaccount is operated in accordance with the provisions of the federal infrastructure bank program.

The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit, public water utility or any other person shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust and, if applicable, the State, acting by and through the Department of Environmental Protection, by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) notwithstanding any provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the contrary, shall be approved by the Director of the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust or the State, as the case may be, at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust or the State, as the case may be, and local government units may agree. Each loan to a local

government unit, public water utility or any other person and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust or the State, as the case may be, and the local government unit, public water utility or any other person, as the case may be, may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of any wastewater treatment system project, water supply project, transportation project, aviation project, marine project, or redevelopment project that includes, as a portion thereof, any wastewater treatment system project, water supply project, or transportation project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust, and shall be in furtherance of the corporate purposes of the trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, public water utilities or any other person, or otherwise incur any additional indebtedness, on or after June 30, 2033.

d. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source including, without limitation, any funds drawn by the trust from a revolving line of credit or other similar financial vehicle that may be procured by the trust, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the Interim Environmental Financing Program Fund or the trust may issue its bonds, notes or other obligations, including commercial paper issued through a competitive or negotiated process, in any principal amounts, in either case, as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units, public water utilities or private persons for any wastewater treatment system projects included on the Department of Environmental Protection project priority list and eligible for approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water supply projects included on the

Department of Environmental Protection project priority list and eligible for approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including, without limitation, any administrative or legislative approvals.

The trust shall create and establish a special fund to be known as the "Interim Environmental Financing Program Fund" for the short-term or temporary loan financing or refinancing program to be known as the "Interim Environmental Financing Program." The monies in the fund shall be used for short-term or temporary loans for clean water and drinking water projects pursuant to the New Jersey Environmental Infrastructure Financing Program.

Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-9.5), any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. Any such short-term or temporary loan made pursuant to the Interim Environmental Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; except a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan; and except a short-term or temporary loan made pursuant to this subsection for environmental planning and engineering design costs associated with long-term control plans for combined sewer overflow projects shall mature no later than the last day of the 10th succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; and except a short-term or temporary loan made pursuant to this subsection which has been submitted as part of an application for funding pursuant to the "Water Infrastructure Finance and Innovation Act of 2014" (WIFIA), 33 U.S.C. s.3901 et seq., as amended and supplemented, shall mature not later than the funding draw period allowed by this federal act. Any short-term or temporary loan or planning, design and construction loan made by the trust pursuant to this subsection may mature in a shorter period of time as may be necessary to

align with construction completion. With respect to any short-term or temporary loan or planning, design, and construction loan made by the trust pursuant to this subsection, the trust may authorize one short-term supplemental loan for residual project expenses thereof upon receipt by the trust from the Department of Environmental Protection of a certification that states that the time required by the project sponsor to complete construction of the project exceeds the maximum maturity date of the project sponsor's outstanding short-term or temporary loan or planning, design, and construction loan. Any such short-term supplemental loan shall not exceed in duration the last day of the third succeeding fiscal year following the loan closing of the supplemental loan. The trust may make short-term or temporary loans pursuant to the Interim Environmental Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list to be known as the "Interim Environmental Financing Program Project Priority List" in the form provided to the Legislature by the Commissioner of Environmental Protection.

The Interim Environmental Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year as provided in section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. The trust may revise or supplement the Interim Environmental Financing Program Project Priority List no more than four times during the fiscal year and shall submit the revised list to the Legislature when the revisions are made. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Environmental Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Environmental Financing Program Fund. The trust may issue short-term or temporary loans pursuant to this subsection only if a project is listed on an Interim Environmental Financing Program Project Priority List that has been submitted to the Legislature. No funds may be disbursed pursuant to this section for environmental infrastructure project activities prior to a determination and certification, in writing, from the Department of Environmental Protection, that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

e. Notwithstanding any provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946, c.138

(C.40:14A-1 et seq.), or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the contrary, short-term or temporary loans made by the trust pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project sponsors to evidence such loans, may, at the discretion of the trust and upon application by the project sponsor, bear interest at a variable rate determined pursuant to a methodology as may be established by the trust from time to time.

Further, notwithstanding any provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the contrary, any short-term or temporary loans made by the trust pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other obligations issued by project sponsors to evidence such short-term or temporary loans, as such loans, notes, or other obligations may be refinanced or extended, as provided in subsections d. and g. of this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except for loans for environmental planning and engineering design costs associated with long-term control plans for combined sewer overflow projects as provided in subsection d. of this section, shall mature no later than the maturity date as established pursuant to subsections d. and g. of this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), without payment by project sponsors of any portion of the principal thereof prior to maturity.

f. Any balances remaining in the Emergency Loan Fund established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1), the Planning and Design Fund established pursuant to section 1 of P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal Loan Fund established pursuant to section 5 of P.L.2009, c.103 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment Loan Fund established pursuant to section 1 of P.L.2014, c.28 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall be transferred to the Interim Environmental Financing Program Fund, and any loan repayments to the trust of principal and interest or premium on loans made from those funds shall be credited to the Interim Environmental Financing Program Fund.

g. The trust shall create and establish a special fund to be known as the "Interim Transportation Financing Program Fund" for the short-term or temporary loan financing or refinancing program to be known as the "Interim Transportation Financing Program."

Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source including, without limitation, any funds drawn by the trust from a revolving line of credit or other similar financial vehicle that may be procured by the trust, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the Interim Transportation Financing Program Fund or the trust may issue its bonds, notes or other obligations in any principal amounts, in either case, as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units or private persons for any transportation project, aviation project, or marine project included on the Department of Transportation Interim Transportation Financing Program Project Priority List for the ensuing fiscal year and eligible for approval pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), including, without limitation, any administrative or legislative approvals.

Any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. Any such short-term or temporary loan made pursuant to the Interim Transportation Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; except a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan and except a short-term or temporary loan made pursuant to this subsection which has been submitted as part of an application for funding pursuant to the "Transportation Infrastructure Finance and Innovation Act of 1998" (TIFIA), 23 U.S.C. s.601 et seq., as amended and supplemented, shall mature not later than the funding draw

period allowed by this federal act. Any short-term or temporary loan or planning, design and construction loan made by the trust pursuant to this subsection may mature in a shorter period of time as may be necessary to align with construction completion. With respect to any short-term or temporary loan or planning, design, and construction loan made by the trust pursuant to this subsection, the trust may authorize one short-term supplemental loan for residual expenses thereof upon receipt by the trust from the Department of Transportation of a certification that states that the time required by the project sponsor to complete construction of the project exceeds the maximum maturity date of the short-term or temporary loan or planning, design, and construction loan. Any such short-term supplemental loan shall not exceed in duration the last day of the third succeeding fiscal year following the loan closing of the short-term supplemental loan. The trust may make short-term or temporary loans pursuant to the Interim Transportation Financing Program to any one or more of the project sponsors, for the respective projects thereof, only if a project is identified in the Department of Transportation Interim Transportation Financing Program Project Priority List to be known as the "Interim Transportation Financing Program Project Priority List" in the form provided to the Legislature by the Commissioner of Transportation.

The Interim Transportation Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted to the Secretary of the Senate and the Clerk of the General Assembly on or before July 1 of each year. The Interim Transportation Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any transportation infrastructure project or the project sponsor thereof not identified in the Interim Transportation Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Transportation Financing Program Fund. The trust may revise or supplement the Interim Transportation Financing Program Project Priority List no more than four times during the fiscal year, and shall submit the revised list to the Legislature when the revisions are made.

No funds may be disbursed pursuant to this subsection for transportation project, aviation project, or marine project activities prior to certification in writing, from the trust, that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through

C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Construction activities for a transportation project shall also require written notification of award concurrence from the Department of Transportation prior to fund disbursement.

61. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to read as follows:

C.34:1B-243 Definitions relative to the "Grow New Jersey Act."

2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport" and the Federal Aviation Administration William J. Hughes Technical Center.

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is:

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5);

a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

a partnership;

an S corporation;
a limited liability company; or
a non-profit corporation.

If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for:

a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property;

b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property;

c. receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

d. any of the foregoing.

In addition to the foregoing, in a Garden State Growth Zone, the following qualify as a capital investment: any development, redevelopment, and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business

facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

"Commitment period" means the period of time that is 1.5 times the eligibility period.

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

"Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

"Disaster recovery project" means a project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster which, after utilizing all disaster funds available from federal, State, county, and local funding sources, demonstrates to the satisfaction of the authority that access to additional funding authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), is necessary to complete the redevelopment project, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on the effective date of P.L.2017, c.221.

"Eligibility period" means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey Assistance Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant.

"Eligible position" or "full-time job" means a full-time position in a business in this State, which position the business has filled with a full-time employee, who shall have their primary office at the qualified business facility and spend at least 60 percent of their time at the qualified business facility. This requirement shall supersede any law, regulation, or incentive agreement that imposes a requirement that the employee be present at the qualified business facility for a specified percentage of time greater than 60 percent. This amendment shall not alter or terminate any waiver of the requirement that an employee spend time at the qualified business facility implemented by the authority due to COVID-19 public health emergency and state of emergency.

"Full-time employee" means a person:

a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment; or

b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

c. who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as

provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; and

d. who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal:

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement;

full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent;

35 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

For any project located in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, 30 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

Full-time employee shall also not include any person who at the time of project application works in New Jersey for consideration for at least 35 hours per week, or who renders any other standard of service generally accepted by custom or practice as full-time employment but who prior to project application was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

"Garden State Create Zone" means the campus of a doctoral university, and the area within a three-mile radius of the outermost boundary of the campus of a doctoral university, according to a map appearing in the doctoral

university's official catalog or other official publication on the effective date of P.L.2017, c.221.

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority; or an aviation district.

"Highlands development credit receiving area or redevelopment area" means an area located within a qualified incentive area and designated by the Highlands Water Protection and Planning Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

"Incentive agreement" means the contract between the business and the authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the program.

"Incentive effective date" means the date a business submits the documentation required pursuant to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form satisfactory to the authority.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

"Major rail station" means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mega project" means:

a. a qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:

(1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained; or

(2) at which more than 1,000 full-time employees of the business are created or retained;

b. a qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:

(1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained, or

(2) at which more than 1,000 full-time employees of the business are created or retained;

c. a qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of $50,000,000, and at which more than 250 full-time employees of the business are created or retained;

d. a project located in an area designated in need of redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties having a capital investment in excess of $20,000,000, and at which more than 150 full-time employees of the business are created or retained; or

e. a qualified business facility primarily used by a business principally engaged in research, development, or manufacture of a drug or device, as defined in R.S.24:1-1, or primarily used by a business licensed to conduct a clinical laboratory and business facility pursuant to the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

(1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained, or

(2) at which more than 1,000 full-time employees of the business are created or retained.

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

"Moderate-income housing" means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross

household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

"New full-time job" means an eligible position created by the business at the qualified business facility that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Other eligible area" means the portions of the qualified incentive area that are not located within a distressed municipality, or the priority area.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Port district" means the portions of a qualified incentive area that are located within:

a. the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or

b. a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

a. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;

b. intersect with portions of: a deep poverty pocket, a port district, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;

c. are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or

d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a

period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the "Grow New Jersey Assistance Program" established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

"Public research university" means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location unless the building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of:

a. a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full-service supermarket or grocery store; or

b. a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

d. an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

(c) Planning Area 3 (Fringe Planning Area);

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et

seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

(5) located within the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area;

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal Commission on Base Realignment and Closure action; or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;

(e) the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

(f) any area on which an existing tourism destination project is located.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

"Qualified incubator facility" means a commercial building located within a qualified incentive area: which contains 50,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 50 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For the purposes of the certifications and annual reports required in the incentive agreement pursuant to subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the extent an eligible position that was the basis of the award no longer exists, a business shall include as a retained full-time job a new eligible position that is filled by a full-time employee provided that the position is included in the order of date of hire and is not the basis for any other incentive award. For a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), retained full-time job shall include any employee previously employed in New Jersey and transferred to the new location in the Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situate.

"State college" means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage

businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Technology startup company" means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

"Tourism destination project" means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that District.

"Transit oriented development" means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

"Urban transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208) and also located within a qualified incentive area.

"Urban transit hub municipality" means a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

62. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to read as follows:

C.34:1B-208 Definitions relative to the "Urban Transit Hub Tax Credit Act."

2. As used in this act:

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all

cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership, an S corporation, or a limited liability corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses incurred after, but before the end of the eighth year after, the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a. the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property; and b. obtaining and installing furnishings and machinery, apparatus or equipment for the operation of a business in a building, structure, facility or improvement to real property.

"Eligible municipality" means a municipality: (1) which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or which was continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional

employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or an employee who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

"Full-time employee at the qualified business facility" means a full-time position in a business in this State, which position the business has filled with a full-time employee, who shall have their primary office at the qualified business facility and spend at least 60 percent of their time at the qualified business facility. This requirement shall supersede any law, regulation, or incentive agreement that imposes a requirement that the employee be present at the qualified business facility for a specified percentage of time greater than 60 percent. This amendment shall not alter or terminate any waiver of the requirement that an employee spend time at the qualified business facility implemented by the authority due to COVID-19 public health emergency and state of emergency.

"Mixed use project" means a project comprising both a qualified business facility and a qualified residential project.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a designated urban transit hub in an eligible municipality, used in connection with the operation of a business.

"Qualified residential project" shall have the meaning ascribed to that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

"Residential unit" means a residential dwelling unit such as a rental apartment, a condominium or cooperative unit, a hotel room, or a dormitory room.

"Urban transit hub" means:

a. (1) property located within a 1/2-mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area, including all light rail stations, and

(2) property located within a one-mile radius of the mid point of the platform area of such a rail station if the property is in a qualified municipality under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, and

(3) the site of the campus of an acute care medical facility located within a one-mile radius of the mid point of the platform area of such a rail station, and

(4) the site of a closed hospital located within a one-mile radius of the mid point of the platform area of such a rail station;

b. property located within a 1/2-mile radius surrounding the mid point of one of up to two underground light rail stations' platform areas that are most proximate to an interstate rail station;

c. property adjacent to, or connected by rail spur to, a freight rail line if the business utilizes that freight line at any rail spur located adjacent to or within a one-mile radius surrounding the entrance to the property for loading and unloading freight cars on trains;

which property shall have been specifically delineated by the authority pursuant to subsection e. of section 3 of P.L.2007, c.346 (C.34:1B-209).

A property which is partially included within the radius shall only be considered part of the urban transit hub if over 50 percent of its land area falls within the radius.

"Rail station" shall not include any rail station located at an international airport, except that any property within a 1/2-mile radius surrounding the mid point of a New Jersey Transit Corporation rail station platform area at an international airport upon which a qualified business facility is constructed or renovated commencing after the effective date of P.L.2011, c.149 (C.34:1B-242 et al.) shall be deemed an urban transit hub, excluding any property owned or controlled by the Port Authority of New York and New Jersey.

63. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to read as follows:

C.34:1B-125 Definitions relative to business employment incentives.

2. As used in sections 1 through 17 of P.L.1996, c.26 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003, c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different meaning clearly appears from the context:

"Advanced computing" means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

"Advanced computing company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of advanced computing for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

"Advanced materials company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of advanced materials for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Application year" means the grant year for which an eligible partnership submits the information required under section 8 of P.L.1996, c.26 (C.34:1B-131).

"Authority" means the New Jersey Economic Development Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Base years" means the first two complete calendar years following the effective date of an agreement.

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies, and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge.

"Biotechnology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes,

or a person, whose headquarters or base of operations is located in New Jersey, engaged in providing services or products necessary for such research, development, production, or provision.

"Bonds" means bonds, notes, or other obligations issued by the authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

"Business" means a corporation; sole proprietorship; partnership; corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners; limited liability company; nonprofit corporation; or any other form of business organization located either within or outside this State. A grant received under P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter S-Corporation, or other business entity shall be apportioned among the persons to whom the income or profit of the partnership, Subchapter S-Corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

"Business employment incentive agreement" or "agreement" means the written agreement between the authority and a business proposing a project in this State in accordance with the provisions of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms and conditions of a grant to be awarded pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

"Designated industry" means a business engaged in the field of biotechnology, pharmaceuticals, financial services, transportation and logistics, advanced computing, advanced materials, electronic device technology, environmental technology, or medical device technology.

"Director" means the Director of the Division of Taxation.

"Division" means the Division of Taxation in the Department of the Treasury.

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

"Electronic device technology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of electronic device technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Eligible partnership" means a partnership or limited liability company that is qualified to receive a grant as established in P.L.1996, c.26 (C.34:1B-124 et seq.).

"Eligible position" is a new full-time position created by a business in New Jersey or transferred from another state by the business under the terms and conditions set forth in P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in subsequent years of a grant. In determining if positions are eligible positions, the authority shall give greater consideration to positions that average at least 1.5 times the minimum hourly wage during the term of an agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.). For grants awarded on or after July 1, 2003, eligible position includes only a position for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes. An "eligible position" shall also include all current and future partners or members of a partnership or limited liability company created by a business in New Jersey or transferred from another state by the business pursuant to the conditions set forth in P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in subsequent years of a grant. An "eligible position" shall also include a position occupied by a resident of this State whose position is relocated to this State from another state but who does not qualify as a "new employee" because prior to relocation the resident's wages or the resident's distributive share of income from a gain, from a loss or deduction, or the resident's guaranteed payments or any combination thereof, prior to the relocation, were not subject to income taxes imposed by the state or municipality in which the position was previously located. An "eligible position" shall also include a position occupied by a resident of another State whose position is relocated to this State but whose income is not subject to the New Jersey gross income tax pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible position" shall not include any position located within New Jersey, which, within a period either three months prior to the business' application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.) or six months after the date of application, ceases to exist or be located within New Jersey.

"Employment incentive" means the amount of a grant, either in cash or in tax credits, determined pursuant to subsection a. of section 6 of P.L.1996, c.26 (C.34:1B-129).

"Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, or the development of alternative energy sources.

"Environmental technology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of environmental technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Estimated tax" means an amount calculated for a partner in an eligible position equal to 6.37 percent of the lesser of: a. the amount of the partner's net income from the eligible partnership that is sourced to New Jersey as reflected in Column B of the partner's Schedule NJK-1 of the application year less the amount of the partner's net income from the eligible partnership that is sourced to New Jersey as reflected in column B of the partner's Schedule NJK-1 in the foundation year; or b. the net of all items of partnership income upon which tax has been paid as reflected on the partner's New Jersey Gross Income Tax return in the application year.

"Foundation year" means the year immediately prior to the creation of the eligible position.

"Full-time employee" means a person who is employed for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and who is determined by the authority to be employed in a permanent position according to criteria it develops, or who is a partner of an eligible partnership, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

"Full-time employee at the qualified business facility" means a full-time position in a business in this State, which position the business has filled with a full-time employee, who shall have their primary office at the qualified business facility and spend at least 60 percent of their time at the qualified business facility. This requirement shall supersede any law, regulation, or incentive agreement that imposes a requirement that the employee be present at the qualified business facility for a specified percentage of time greater than 60 percent. This amendment shall not alter or terminate any waiver of the requirement that an employee spend time at the qualified business facility

implemented by the authority due to COVID-19 public health emergency and state of emergency.

"Grant" means a business employment incentive grant as established in P.L.1996, c.26 (C.34:1B-124 et seq.).

"Medical device technology" means a technology involving any medical equipment or product, other than a pharmaceutical product, that has therapeutic value, diagnostic value, or both, and is regulated by the federal Food and Drug Administration.

"Medical device technology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of medical device technology for the purpose of developing or providing products or processes for specific commercial or public purposes.

"Net income from the eligible partnership" means the net combination of a partner's distributive share of the eligible partnership's income, gain, loss, deduction, or guaranteed payments.

"New employee" means a full-time employee first employed in an eligible position on the project which is the subject of an agreement or who is a partner of an eligible partnership, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; except that a New Jersey resident whose position is relocated to this State shall not be classified as a "new employee" unless the employee's wages, or the employee's distributive share of income from a gain, from a loss or deduction, or the employee's guaranteed payments or any combination thereof, prior to the relocation, were subject to income taxes imposed by the state or municipality in which the position was previously located. "New employee" may also include an employee rehired or called back from a layoff during or following the base years to a vacant position previously held by that employee or to a new position established during or following the base years. "New employee" shall not include any employee who was previously employed in New Jersey by the business or by a related person as defined in section 2 of P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the business, which is the subject of an agreement, unless the employee's position at the employee's previous employer is filled by a new employee. "New employee" also shall not include a child, grandchild, parent, or spouse of an individual associated with the business who has direct or indirect

ownership of at least 15 percent of the profits, capital, or value of the business. New employee shall also include an employee whose position is relocated to this State but whose income is not subject to the New Jersey gross income tax pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

"Partner" means a person who is entitled to either a distributive share of a partnership's income, gain, loss, or deduction, or guaranteed payments, or any combination thereof, by virtue of holding an interest in the partnership. "Partner" also includes a person who is a member of a limited liability company which is treated as a partnership, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

"Refunding Bonds" means bonds, notes or other obligations issued to refinance bonds, notes or other obligations previously issued by the authority pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et seq.).

"Residual withholdings" means for any period of time, the excess of the estimated cumulative withholdings for all executed agreements eligible for payments under P.L.1996, c.26 (C.34:1B-124 et seq.) over the cumulative anticipated grant amounts.

"Schedule NJK-1" means Schedule NJK-1 as the form existed for taxable year 1997.

"Withholdings" means the amount withheld by a business from the wages of new employees or estimated taxes paid by, or on behalf of, partners that are new employees, or any combination thereof, pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and, if the new employee is an employee whose position has moved to New Jersey but whose income is not subject to the New Jersey gross income tax pursuant to N.J.S.54A:1-1 et seq., the amount of withholding that would occur if the employee were to move to New Jersey.

64. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to read as follows:

C.34:1B-113 Definitions relative to business retention and relocation assistance.

2. As used in this act:

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity may establish

by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes;

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Business retention or relocation grant of tax credits" or "grant of tax credits" means a grant which consists of the value of corporation business tax credits against the liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits against the taxes imposed on insurers pursuant to P.L.1945, c.132 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and N.J.S.17B:23-5, provided to fund a portion of retention and relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Business" means an employer located in this State that has operated continuously in the State, in whole or in part, in its current form or as a predecessor entity for at least 10 years prior to filing an application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and which is subject to the provisions of R.S.43:21-1 et seq. and may include a sole proprietorship, a partnership, or a corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners, limited liability company, nonprofit corporation, or any other form of business organization located either within or outside the State. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by an affiliate or based upon retained full-time jobs of an affiliate;

"Capital investment" means expenses that the business incurs following its submission of an application to the authority pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the Capital Investment Completion Date, as shall be defined in the project agreement, for: (1) the site preparation and construction, renovation, improvement, equipping of, or obtaining and installing fixtures and machinery, apparatus or equipment in, a newly constructed, renovated or improved building, structure, facility, or improvement to real property in this State; and (2) obtaining and installing fixtures and machinery, apparatus or equipment in a building, structure, or facility in this State. Provided however, that "capital investment" shall not include soft costs such as financing and design, furniture or decorative items such as artwork or plants, or office equipment if the office equipment is property with a recovery period of less than five years. The recovery period of any property, for purposes of this section, shall be determined as of the

date such property is first placed in service or use in this State by the business, determined in accordance with section 168 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be;

"Certificate of compliance" means a certificate issued by the authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

"Chief executive officer" means the chief executive officer of the New Jersey Economic Development Authority;

"Commitment duration" means the tax credit term and five years from the end of the tax credit term specified in the project agreement entered into pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116);

"Designated industry" means an industry identified by the authority as desirable for the State to maintain, which may be designated and amended via the promulgation of rules by the authority to reflect changing market conditions;

"Designated urban center" means an urban center designated in the State Development and Redevelopment Plan adopted by the State Planning Commission;

"Eligible position" means a full-time position retained by a business in this State for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey Statutes;

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or an employee who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or

practice, as determined by the authority, as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business;

"Full-time employee at the qualified business facility" means a full-time position in a business in this State, which position the business has filled with a full-time employee, who shall have their primary office at the qualified business facility and spend at least 60 percent of their time at the qualified business facility. This requirement shall supersede any law, regulation, or incentive agreement that imposes a requirement that the employee be present at the qualified business facility for a specified percentage of time greater than 60 percent. This amendment shall not alter or terminate any waiver of the requirement that an employee spend time at the qualified business facility implemented by the authority due to COVID-19 public health emergency and state of emergency.

"New business location" means the premises to which a business will relocate that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than the commitment duration or eight years, whichever is greater, from the date of relocation. A "new business location" also means the business's current location or locations if the business makes a capital investment equal to the total value of the business retention or relocation grant of tax credits to the business at that location or locations;

"Program" means the Business Retention and Relocation Assistance Grant Program created pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Project agreement" means an agreement between a business and the authority that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount and tax credit term of the applicable grant of tax credits, and other such provisions which further the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.);

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered the eligible positions of the business;

"Tax credit term" means the period of time commencing with the first issuance of tax credits and continuing during the period in which the recipient of a grant of tax credits is eligible to apply the tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3); and

"Yearly tax credit amount" means $1,500 times the number of retained full-time jobs. "Yearly tax credit amount" does not include the amount of any bonus award authorized pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1).

C.34:1B-370 Short title.

65. Sections 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373) shall be known and may be cited as the "New Jersey Innovation Fellows Program Act."

C.34:1B-371 Findings, declarations relative to entrepreneurs.

66. The Legislature finds and declares that:

a. One of the most difficult challenges for upstart entrepreneurs is forgoing employment to launch their businesses.

b. For diverse entrepreneurs from underserved populations, this challenge is often exacerbated as these entrepreneurs historically lack funding from family and friends to support their living expenses while building a business without income.

c. Having alternative sources of capital and new ways to deploy capital to entrepreneurs can be crucial for disadvantaged entrepreneurs in particular.

d. Although many universities provide fellowships for advancing business ideas, this assistance is often only available to students, and there is a dearth of programs designed specifically to support non-student entrepreneurs.

e. The New Jersey Economic Development Authority, through the New Jersey Innovation Fellows Program, shall seek to consolidate public and private economic development efforts through various funding sources into one targeted program to invest in diverse talent critical to New Jersey having a vibrant innovation ecosystem.

C.34:1B-372 Definitions relative to the New Jersey Innovation Fellows Program.

67. As used in sections 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Chief executive officer" means the Chief Executive Officer of the New Jersey Economic Development Authority.

"Eligible municipality" means a city of the first class, a municipality with a private research university, a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Entrepreneur" means an individual starting a small business and who meets the eligibility criteria established by the authority for the program.

"Program" means the New Jersey Innovation Fellows Program, established pursuant to section 68 of P.L.2021, c.160 (C.34:1B-373).

"Targeted industry" means any industry identified from time to time by the authority that shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

C.34:1B-373 "New Jersey Innovation Fellows Program."

68. a. There is established the "New Jersey Innovation Fellows Program" within the authority for the purpose of providing seed funding to teams of entrepreneurs, through the disbursement of fellowship grants, and facilitating economic growth and job creation in eligible municipalities. The award of a fellowship grant to a team of entrepreneurs shall be limited to $350,000 per team and shall be used as income-replacement for entrepreneurs who leave the workforce to open and operate a business in an eligible municipality.

b. The chief executive officer shall award fellowship grants through a competitive grant solicitation to teams of no less than three entrepreneurs, in which at least half of the team members are first time entrepreneurs, with well-written business plans who:

(1) are seeking to open and operate a business in a targeted industry, which business is located in an eligible municipality;

(2) commit to working at the business on a full-time basis for two years next following receipt of the fellowship grant;

(3) participate in a mentorship program; and

(4) pay gross income tax pursuant to N.J.S.54A:1-1 et seq. at the time of applying for the fellowship grant and remain New Jersey taxpayers during the time in which fellowship grants are disbursed and the next following two years. If any member of the original awarded team of entrepreneurs ceases to be a New Jersey taxpayer during the time in which fellowship grants are disbursed and the next following two years, the fellowship grant may be rescinded, and any amount paid may be recouped, by the authority.

c. A team of entrepreneurs seeking to participate in the program shall submit an application in a form determined by the chief executive officer. The application shall include information that the chief executive officer determines is necessary to administer the program.

d. The chief executive officer shall award fellowship grants in intervals determined by the chief executive officer following application approval and the submission of proof by a team of entrepreneurs that the team has fulfilled the eligibility requirements pursuant to subsection b. of this section and any other requirements determined by the authority. The submission of proof shall be subject to review and audit by the authority.

e. A team of entrepreneurs that includes at least one member who is a graduate of a New Jersey college or university or is a diverse entrepreneur, as defined in section 2 of P.L.1997, c.349 (C.54:10A-5.29), and meets the eligibility requirements may receive a fellowship grant up to $400,000.

f. Within one year of the effective date of P.L.2021, c.160 (C.34:1B-370 et al.), the authority shall undertake a disparity study analyzing the relative availability of seed money and capital for diverse entrepreneurs, as defined in section 2 of P.L.1997, c.349 (C.54:10A-5.29), in this State and the authority's historic support of such businesses. If recommended by the study, the authority shall establish policies, practices, protocols, and, if appropriate, minimum percentages of the funds to be set aside to eligible teams of entrepreneurs that include at least one diverse entrepreneur or one female entrepreneur. Regardless of whether the disparity study recommends a set-aside for diverse entrepreneurs, the authority may make up to 35 percent of the funds available for the award of fellowship grants to teams of entrepreneurs that include at least one member that either resides in a New Jersey State opportunity zone, as defined in section 45 of P.L.2020, c.156 (C.34:1B-313), or is seeking to open and operate a business in an opportunity zone eligible census tract.

69. There is appropriated from the General Fund to the New Jersey Economic Development Authority the sum of $10,000,000 for the award of fellowship grants to teams of entrepreneurs pursuant to sections 65 through

68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373) and for the costs of administering the "New Jersey Innovation Fellows Program."

70. This act shall take effect immediately, and the amendments made to P.L.2020, c.156 by this act, P.L.2021, c.160 (C.34:1B-370 et al.), shall apply to applications submitted pursuant section 72 of P.L.2020, c.156 (C.34:1B-340), section 1 of P.L.2018, c.56 (C.54A:4-12a), and 2 of P.L.2018, c.56 (C.54A:4-12b) on or after the effective date of P.L.2020, c.156, except the amendments made by this act to paragraph (2) of subsection a. of section 1 of P.L.2018, c.56 (C.54A:4-12a) and paragraph (2) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall apply to applications submitted on and after the effective date of this act. The amendments made to P.L.2020, c.156 by this act shall apply to all other applications submitted under P.L.2020, c.156 on and after the effective date of this act.

Approved July 2, 2021.

CHAPTER 161

AN ACT establishing the "Broadband Access Study Commission."

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

1. a. There is established in the Board of Public Utilities the "Broadband Access Study Commission." The commission shall consist of 19 members as follows:

(1) the President of the Board of Public Utilities, ex officio, or the president's designee, who shall serve as chairperson of the commission;

(2) the Chief Technology Officer of the Office of Information Technology, ex officio, or the officer's designee;

(3) the Director of the Division of Rate Counsel, ex officio, or the director's designee;

(4) the Secretary of the Department of Agriculture, ex officio, or the secretary's designee;

(5) the Chief Executive Officer of the New Jersey Economic Development Authority, ex officio, or the officer's designee;

(6) the Commissioner of the Department of Education, ex officio, or the commissioner's designee;

(7) the Commissioner of the Department of Community Affairs, ex officio, or the commissioner's designee;

(8) three public members to be appointed by the Governor, who shall have expertise in community broadband networks and infrastructure;

(9) one member of the Senate to be appointed by the Governor, upon the recommendation of the President of the Senate;

(10) one member of the General Assembly to be appointed by the Governor, upon the recommendation of the Speaker of the General Assembly;

(11) three public members to be appointed by the Governor, upon recommendation by the President of the Senate, who shall include an individual with expertise in community broadband networks and infrastructure and an individual with expertise in municipal and county governance or public utilities, with one individual residing in the northern region of the State, one individual residing in the central region of the State, and one individual residing in the southern region of the State;

(12) three public members to be appointed by the Governor, upon recommendation by the Speaker of the General Assembly, who shall include at least one individual with expertise in community broadband networks and infrastructure and an individual with expertise in municipal and county governance or public utilities, with one individual residing in the northern region of the State, one individual residing in the central region of the State, and one individual residing in the southern region of the State; and

(13) a member representing the New Jersey Library Association to be appointed by the Governor, upon the recommendation of the association's executive board.

b. Any vacancy in the membership of the commission shall be filled in the same manner in which the original appointment was made.

c. Members of the commission shall serve without compensation but shall be reimbursed for necessary and reasonable expenses incurred in the performance of their duties pursuant to this act within the limits of funds appropriated or otherwise made available to the commission for its purposes.

d. For the purpose of this act:

"broadband network" means a state-of-the-art network capable of delivering download and upload speeds of no less than the standards as defined by the Federal Communications Commission. The actual speeds must be adjusted upwards to allow for improved technologies and usage requirements as determined by the commission.

"broadband service" means any telecommunications service using a broadband network for the purpose of offering high speed, switched,

broadband wireline telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, or video telecommunications through the Internet and using any technology.

"community broadband network" means a local shared network consisting of a series of interlinked computers that allow persons with devices connected to a wired network within the area served to gain entry to the wider Internet through high speed Internet service connections at designated access points.

2. The commission shall organize as soon as possible after the appointment of a majority of the commission's members and shall meet at the call of the chairperson at the times and in the places it may deem appropriate and necessary to fulfill its duties.

3. a. The commission shall evaluate the impediments of access to broadband service for all residents of New Jersey. The commission shall look at issues, including but not limited to, physical access, deployment, and affordability of broadband service.

b. The commission shall evaluate the feasibility of establishing community broadband networks in this State pursuant to the goals of this act. The commission shall be responsible for, but not be limited to, the following:

(1) considering whether leasing or purchasing established broadband infrastructure, such as, but not limited to, unused fiber optic cable and unused broadcast television signal space, is more advantageous in achieving the goals pursuant to this act;

(2) considering whether establishing a community broadband municipal or county agency or a non-profit corporation is more appropriate to administer a broadband network;

(3) evaluating the different methods, including legislation and contracts with private companies, that other municipalities or counties in this country have used to implement community broadband networks;

(4) determining the most cost effective method in which to establish community broadband networks, with a cost estimate for the local government and a rate estimate for paying customers; and

(5) exploring all possible federal, State, and private funding sources for the establishment of community broadband networks in this State.

4. The commission shall be entitled to call to its assistance and avail itself of the services of the officials and employees of the State and its political subdivisions and their departments, boards, bureaus, commissions, and agencies as it may require and as may be available to it for the purposes

of the commission. The Board of Public Utilities shall provide staff support services to the commission.

5. The commission shall report its findings, conclusions, and recommendations to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature no later than one year following the first meeting of the commission. The commission shall expire upon the submission of the commission's report, pursuant to this section.

6. This act shall take effect immediately and shall expire upon the submission by the commission of its report pursuant to section 5 of this act.

Approved July 7, 2021.

CHAPTER 162

AN ACT concerning working certificates for minors and amending P.L.1940, c.153.

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

1. Section 8 of P.L.1940, c.153 (C.34:2-21.8) is amended to read as follows:

C.34:2-21.8 Issuance of certificates; prerequisites.

8. a. Except as provided in subsection b. of this section, the issuing officer shall issue such certificates only upon the application in person of the minor desiring employment, and after having approved and filed the following papers:

(1) A promise of employment signed by the prospective employer or by someone duly authorized by him, setting forth the specific nature of the occupation in which he intends to employ such minor, the wage to be paid such minor, and the number of hours per day and days per week which said minor shall be employed.

(2) Evidence of age showing that the minor is of the age required by this act, which evidence shall consist of one of the following proofs of age and shall be required in the order herein designated, as follows:

(a) A birth certificate or certified transcript thereof or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or

(b) A baptismal certificate or attested transcript thereof showing the date and place of birth, and date and place of baptism of the minor, or

(c) Other documentary evidence of age satisfactory to the issuing officer, such as a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or a passport, showing the age of the minor, or a certificate of arrival in the United States, issued by U.S. Citizenship and Immigration Services, showing the age of the minor, or a life insurance policy, provided that such other documentary evidence has been in existence at least one year prior to the time it is offered as evidence, and provided further that a school record of age or an affidavit of a parent or guardian or other written statement of age shall not be accepted, except as specified in paragraph (d) of this section.

(d) In the case none of the aforesaid proofs of age shall be obtainable and only in such case, the issuing officer may accept the school record or the school-census record of the age of the minor together with the sworn statement of a parent or guardian as to the age of the minor and also with a certificate signed by the physician or advanced practice nurse authorized to sign the statements of physical fitness required by this section, specifying what in his opinion is the physical age of the minor. Such certificates shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician or advanced practice nurse is based as to the physical age of the minor. If the school or school-census record of age is not obtainable, the sworn statement of the minor's parent or guardian, certifying to the name, date and place of birth of the minor, together with a physician's or advanced practice nurse's certificate of age as hereinbefore specified, may be accepted as evidence of age. The issuing officer shall administer said sworn statement.

The issuing officer shall, in issuing a certificate for a minor, require the evidence of age specified in paragraph (a) of this section in preference to that specified in paragraphs (b), (c) and (d) of this section and shall not accept the evidence of age permitted by any subsequent paragraph unless he shall receive and file evidence that the evidence of age required by the preceding paragraph or paragraphs cannot be obtained.

(3) A statement of physical fitness, signed by a medical inspector employed by the applicable board of education, or any other physician licensed to practice medicine and surgery, or advanced practice nurse, setting

forth that such minor has been thoroughly examined by such medical inspector, or such other physician licensed to practice medicine and surgery, or advanced practice nurse, that he either is physically fit for employment in occupations permitted for persons under 18 years of age, or is physically fit to be employed under certain limitations, specified in the statement. If the statement of physical fitness is limited, the employment certificate issued thereon shall state clearly the limitations upon its use, and shall be valid only when used under the limitations so stated. The method of making such examinations shall be prescribed jointly by the Commissioner of Education and the State Department of Health; provided, however, no minor shall be required to submit to a physical examination, whose parent or guardian objects thereto in writing on the grounds such examination is contrary to his religious beliefs and practices.

(4) A school record signed by the principal of the school which the minor has last attended or by someone duly authorized by him, giving the full name, date of birth, grade last completed, and residence of the minor, provided, that in the case of a vacation certificate issued for work before or after school hours, such record shall also state that the child is a regular attendant at school, and in the opinion of the principal may perform such work without impairment of his progress in school, but such principal's statement shall not be required for the issuance of a vacation certificate for work during regular school vacations.

b. (1) During a state of emergency or public health emergency, requiring the personal appearance of the minor, and, under certain circumstances, the minor's parent or guardian, before the school district issuing officer in order to apply for or sign employment certificates may be satisfied through the use of audio-visual technology.

(2) Each public school district shall develop and implement procedures with respect to employment certificates issued during a state of emergency or public health emergency to satisfy the statutory requirements without requiring in-person contact between the school district issuing official and the minor, under the following conditions:

(a) During the application process, the child and the school district issuing officer may transmit a single copy of all required documentation by way of electronic transmission, fax, or any other means of transfer of documents developed by the school district that avoids in-person contact, is secure, and maintains the confidentiality of the documents;

(b) The video conference shall be live and must allow for interaction between the child and the school district issuing officer, and when applicable, the parent or guardian. During the video conference, the child shall verify his or her identity, authenticate the documents submitted, and sign the

application, in a way that is visible and audible to the school district issuing officer;

(c) Following the video conference, the child shall transmit the signed certificate, by electronic or other means as determined by the school district, to the issuing officer, who shall make the requisite copies and distribute the original and copies as required by this section; and

(d) The school district shall be responsible for performing the physical examination at no cost to a student's parents or guardians, except that the parent or guardian may have the student examined at their own expense by a physician of their own choosing. A school physical, including a sports physical, while at a high school shall be valid for the entire time that the student is enrolled at the high school, unless the school district policy specifies more frequent physicals.

(3) If the state of emergency does not apply to the entire State, a minor shall be regarded as a covered minor under this section only if the minor resides in the area subject to the state of emergency.

c. As used in this section:

"Public health emergency" means an occurrence or imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or a novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents or permanent or long-term disability, and which has been declared a public health emergency by the Governor.

"State of emergency" means a natural or human-made disaster or emergency, including an epidemic or other health emergency, for which a state of emergency has been declared by the President of the United States, the Governor, a municipal emergency management coordinator, or other public authority permitted by law to declare a state of emergency.

2. Section 10 of P.L.1940, c.153 (C.34:2-21.10) is amended to read as follows:

C.34:2-21.10 Employment certificate; contents.

10. a. An employment certificate shall state the name, sex, color, date and place of birth, residence, color of hair and eyes, height, weight, any distinguishing facial marks of the child--the employer's name, address and type of business, the occupation of the child, the kind of proof of age submitted, the grade completed, physician's approval and the name and address of parent. Except as provided in subsection b. of this section, every

such certificate shall be signed in the presence of the issuing officer by the child in whose name it is issued.

b. During a state of emergency or public health emergency, requiring the personal appearance of the minor, and, under certain circumstances, the minor's parent or guardian, before the school district issuing officer in order to apply for or sign employment certificates may be satisfied through the use of audio-visual technology.

If the state of emergency does not apply to the entire State, a minor shall be regarded as a covered minor under this section only if the minor resides in the area subject to the state of emergency.

c. As used in this section:

"Public health emergency" means an occurrence or imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or a novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents or permanent or long-term disability, and which has been declared a public health emergency by the Governor.

"State of emergency" means a natural or human-made disaster or emergency, including an epidemic or other health emergency, for which a state of emergency has been declared by the President of the United States, the Governor, a municipal emergency management coordinator, or other public authority permitted by law to declare a state of emergency.

3. Section 3 of P.L.1962, c.91 (C.34:2-21.59) is amended to read as follows

C.34:2-21.59 Permit; grounds for issuance.

3. a. Upon application of an employer, bearing the endorsed approval of a parent or guardian of the minor a permit authorizing employment of the minor in a theatrical production may be issued if:

(a) The minor is in good health and will not likely be endangered by the working conditions of the prospective employment as certified by a currently issued statement of a licensed physician based upon a physical examination which, for minors under 8 years of age, includes a visual acuity screening if practicable;

(b) The place of employment is approved by the Department of Labor and the period for which the permit is desired is not in excess of 3 months;

(c) The minor is not attending public school and the application is for a period other than during the school summer vacation period, that he is

receiving equivalent instruction approved by the Department of Education or by the state or county of his residence if he is a nonresident of New Jersey;

(d) The proposed employment will not exceed two shows or productions in a day or a total of eight shows or productions in any week where the professional employment is reasonably separable into discrete shows or productions; that the employment will not be for more than 6 days in any week, 5 hours in any day or a total of 24 hours, including rehearsal time, in any week and that the minor will not be employed before 7:00 a.m. or after 11:30 p.m. and that school and theatrical performance time shall not exceed 8 hours in any 1 day and that the combined time spent on a set or on call and performance time shall not exceed a total of eight hours in any one day;

(e) The employment does not involve a type of prohibited performance as hereinafter defined; and

(f) The minor will be under the direct care and supervision of an adult who is a parent, guardian or a representative of the employer, named in the application, at all times during his employment or while living away from home when required as an incident of such employment.

b. A permit or certificate, as the case may be, may be issued by the issuing officer or by the Commissioner of Labor in cases involving a significant contribution to the development of the motion picture industry in the State as determined by the Motion Picture and Television Development Commission. In such cases, the commissioner shall also have the authority to alter or amend the hours of the day but not the total hours in the day during which a minor may work as set forth in paragraph (d), subsection a. of this section, if such alteration or amendment will not foreseeably impair the educational instruction, supervision, health and welfare of the minor, and such an alteration or amendment is necessary for good reasons shown by the employer. The commissioner shall set forth the terms of any alteration or amendment in the permit or certificate.

c. During a state of emergency or public health emergency, any aspect of the authorization requiring the personal appearance of the minor or the minor's parent or guardian may be satisfied through the use of audio-visual technology in a manner consistent with the provisions of subsection b. of section 8 of P.L.1940, c.153 (C.34:2-21.8).

4. This act shall take effect immediately.

Approved July 7, 2021.

CHAPTER 163

AN ACT concerning health care benefits plans provided to public employees by the School Employees' Health Benefits Program and certain boards of educations and amending P.L.2020, c.44.

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

1. Section 5 of P.L.2020, c.44 (C.18A:16-13.2) is amended to read as follows:

C.18A:16-13.2 Applicability to local boards of education, certain employers; enrollment period.

5. This section shall apply to local boards of education and employers, as specified in subsection k. of this section, who do not participate in the School Employees' Health Benefits Program.

Any health insurance company may provide to local boards of education and to those employers defined pursuant to section 32 of P.L.2007, c.103 (C.52:14-17.46.2) who do not participate in the School Employees' Health Benefits Program the equivalent of the New Jersey Educators Health Plan in the School Employees' Health Benefits Program as that plan design is described in subsection f. of section 1 of P.L.2020, c.44 (C.52:14-17.46.13) and the Garden State Health Plan as that plan design is described in subsection d. of section 1 of P.L.2020, c.44 (C.52:14-17.46.13), notwithstanding the provisions of any other law, rule, or regulation, including any regulation of the New Jersey Department of Banking and Insurance, to the contrary. As used in this subsection, "health insurance company" means and includes a health, hospital, and medical service corporation; commercial individual, small employer, and larger group health insurer; and a health maintenance organization.

a. (1) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, beginning January 1, 2021 and for each plan year thereafter, a board of education as an employer providing health care benefits coverage for its employees, and their dependents if any, in accordance with P.L.1979, c.391 (C.18A:16-12 et seq.) shall offer to its employees, and their dependents if any, the equivalent of the New Jersey Educators Health Plan in the School Employees' Health Benefits Program as that plan design is described in subsection f. of section 1 of P.L.2020, c.44 (C.52:14-17.46.13).

Beginning January 1, 2022 and for each plan year thereafter, a board of education as an employer providing health care benefits coverage for its employees, and their dependents if any, in accordance with P.L.1979, c.391 (C.18A:16-12 et seq.) shall also offer a plan for its employees, and their dependents if any, that is the equivalent of the Garden State Health Plan in the School Employees' Health Benefits Program. The board shall provide an enrollment period prior to January 1, 2022.

(2) The plans under this section shall be offered by the employer regardless of any collective negotiations agreement between the employer and its employees in effect on the effective date of this act, P.L.2020, c.44, that provides for enrollment in other plans offered by the employer.

No new health care benefits plans, other than those specified in paragraph (1) of this subsection, shall be added by the employer from January 1, 2021 through December 31, 2027 unless the provisions of any collective negotiations agreement entered into before or after the effective date of this act, P.L.2020, c.44, results in additional premium cost reductions. Nothing in this section shall prohibit an employer from offering health care benefits plans that existed prior to the effective date of this act.

(3) Commencing January 1, 2028, the employer may offer such other plans as may be required in accordance with any collective negotiations agreement between the employer and its employees.

b. Prior to January 1, 2021, each employer shall provide an enrollment period during which all employees who commenced employment prior to the effective date of this act shall be required to select affirmatively a plan provided by the employer. If an employee fails to select affirmatively a plan during this enrollment period, the employer shall enroll the employee, and the employee's dependents if any, in the equivalent New Jersey Educators Health Plan offered pursuant to subsection a. of this section for the year January 1, 2021 until December 31, 2021.

During the enrollment period, each person who is enrolled in a plan offered by the employer and who is paying the full cost of coverage shall also be required to select affirmatively a plan provided by the employer. If a person fails to select affirmatively a plan during this enrollment period, the employer shall enroll the person, and the person's dependents if any, in the equivalent New Jersey Educators Health Plan offered pursuant to subsection a. of this section for the year January 1, 2021 until December 31, 2021. Any such person shall continue to pay the full cost of coverage and shall not be subject to the contribution schedule or any mandatory enrollment period as set forth in this section.

c. (1) Beginning on January 1, 2021, an employee commencing employment on or after the effective date of this act but before January 1, 2028 who does not waive coverage, shall be enrolled by the employer in the equivalent New Jersey Educators Health Plan, or the equivalent Garden State Health Plan if selected by the employee, as those plans are offered pursuant to subsection a. of this section. The employee shall remain enrolled in either the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan selected by the employee at the annual open enrollment for each plan year until December 31, 2027, provided that the employee during this period may waive coverage as an employee and select and change the type of coverage received under the plan following a qualifying life event, in accordance with the plan regulations. Beginning January 1, 2028, the employee may select, during any open enrollment period or at such other times or under such conditions as the employer may provide, any plan offered by the employer.

(2) Except as otherwise provided in this subsection or subsection b. of this section, selection of a plan shall be at the sole discretion of the employee.

(3) The enrollment required by paragraph (1) of this subsection shall not include an employee who commenced employment prior to the effective date of P.L.2020, c.44 and who did not enroll, who waived enrollment, or who was not eligible to enroll prior to that effective date for health care coverage provided by the employer, including, but not limited to, an employee who commenced employment as a part-time employee prior to the effective date of P.L.2020, c.44. If such an employee was required to enroll prior to the effective date of P.L.2021, c.163 in accordance with paragraph (1), the employee shall be notified promptly in writing that enrollment is not mandatory and shall be provided promptly with an opportunity to select enrollment in another health care benefits plan.

d. An employee shall contribute annually toward the cost of health care benefits coverage for the employee, and employee's dependents if any, the amount specified, in the manner specified, in subsection a. or b. of section 2 of this act, P.L.2020, c.44 (C.52:14-17.46.14) if the employee, and the employee's dependents if any, are enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section. An employee's contribution toward the cost of coverage under the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall be the amount required in subsection b. of section 2 of this act, except that the contribution specified in that subsection shall not be less than the minimum annual contribution for health care benefits coverage of 1.5% of salary as required by law.

e. (1) An employee enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall be required to pay only the contribution specified in subsections a. and b. of section 2 of this act, notwithstanding any other provision of law, rule, or regulation to the contrary requiring contributions by employees toward the cost of health care benefits coverage provided by an employer, except as provided in subsection d. of this section. No other contribution may be required by collective negotiations agreement, except as set forth in subsection i. of this section.

(2) Employees who are not enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall continue, after the effective date of this act, P.L.2020, c.44, to contribute to health care benefits coverage and those contributions shall be determined in accordance with what is permitted or required by provisions of law.

An employee who is enrolled in a plan other than the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall be required to contribute toward the cost of health care benefits coverage offered by the employer (a) in accordance with a collective negotiations agreement applicable to that employee as negotiated prior to or after the effective date of this act pursuant to the requirements that were set forth in law on the day next preceding that effective date; (b) as may be required at the discretion of the employer; or (c) as required by a provision of law, whichever is applicable to that employee.

With regard to contributions by an employee who is enrolled in a plan other than the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section, no provision in this section shall be deemed to modify, alter, impair, or terminate the requirement in sections 77 and 78 of P.L.2011, c.78 (C.18A:16-17.2 and C.52:14-17.28e), as applicable, that a public employer and employees who are in negotiations for the collective negotiations agreement to be executed after the employees in that unit had reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract. Nothing in this act shall be deemed to modify, alter, impair, or terminate the continued compliance after the effective date of this act with that requirement for negotiations for any collective negotiations agreement for employee contributions for plans other than the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section.

(3) For an employee, the annual base salary paid by the employer for the position held by the employee shall be used to identify the percentage to be used to calculate the annual contribution required under subsections a. and b. of section 2 of this act.

f. The annual contribution by an employee as calculated in accordance with subsection a. or b. of section 2 of this act shall not exceed the amount as calculated in accordance with section 4 of this act.

g. The contributions required by this section shall apply to employees for whom the employer has assumed a health care benefits payment obligation, to require that such employees pay the amount of contribution specified in this section for health care benefits coverage.

h. The level of benefits in the equivalent New Jersey Educators Health Plan and the equivalent Garden State Health Plan offered by the employer shall remain unchanged until December 31, 2027. No change in the level of benefits in those plans shall be made before that date unless such a change is required by federal or State law to governmental health care benefits plans or to both governmental and non-governmental health care benefits plans.

Commencing January 1, 2028 and for each plan year thereafter, the level of benefits in the equivalent New Jersey Educators Health Plan and the equivalent Garden State Health Plan offered by the employer may be modified by the employer in accordance with collective negotiations agreements entered into between the employers who do not participate in the School Employees' Health Benefits Program and their employees, or as otherwise permitted by law.

i. Commencing January 1, 2028 and for each plan year thereafter, the contributions required pursuant to subsections a. and b. of section 2 of this act for employees enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section may be modified in accordance with collective negotiations agreements entered into between the employers who do not participate in the School Employees' Health Benefits Program and their employees. The contributions required pursuant to subsections a. and b. of section 2 of this act shall become part of the parties' collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties. Negotiations concerning contributions for health care benefits shall be conducted as if the contributions required pursuant to subsections a. and b. of section 2 of this act were included in the prior contract. The contribution scheme of the percentage of base salary set forth in those subsections may be modified or a new contribution scheme or method other than a percentage of salary may be provided for in accordance with a collective negotiations agreement.

j. Modifications to plan design of the plans set forth in section 1 of this act, P.L.2020, c.44 (C.52:14-17.46.13), or adjustments to the employee contribution rates set forth in subsections a. and b. of section 2 of this act, made by the School Employees' Health Benefits Plan Design Committee or the State Treasurer pursuant to section 7 of this act shall be implemented for the purposes of this section by the employer commencing January 1, 2024.

k. This section shall also apply when health care benefits coverage is provided though an insurance fund or joint insurance fund or any other manner. This section shall apply to any employer, as that term is defined in section 32 of P.L.2007, c.103 (C.52:14-17.46.2), that is not a participating employer in the School Employees' Health Benefits Program. This section shall not apply to charter school or renaissance school employers unless they have a collective negotiations agreement with any of their employees in effect on or after the effective date of P.L.2020, c.44.

l. Notwithstanding any provision of law, rule, or regulation to the contrary, for any period of time during which the employer does not have to pay a premium or periodic charge for any health care benefits plan or program provided to its employees pursuant to this section, pursuant to another law, or pursuant to a collective bargaining agreement, an employee enrolled in such plan or program shall not be required to make the employee's contribution toward that premium or periodic charge during that period of time. In the event that a collective negotiations agreement specifically addresses a premium holiday the collective negotiations agreement shall be controlling.

2. Section 1 of P.L.2020, c.44 (C.52:14-17.46.13) is amended to read as follows:

C.52:14-17.46.13 Health care benefit plans offered.

1. This section shall apply to the School Employees' Health Benefits Program (SEHBP) and to those employers defined pursuant to section 32 of P.L.2007, c.103 (C.52:14-17.46.2) that participate in the program.

a. (1) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, beginning with the plan year that commences January 1, 2021 and for each plan year thereafter, the School Employees' Health Benefits Program shall offer only three plans that provide medical and prescription drug benefits for employees, and retirees who are not Medicare-eligible, and their dependents if any. All other plans offered prior to January 1, 2021 for employees, and retirees who are not Medicare-eligible, and their dependents if any, shall be terminated.

The three plans shall be the New Jersey Educators Health Plan as developed by the School Employees' Health Benefits Plan Design Committee in accordance with subsection f. of this section which sets forth the plan design of the New Jersey Educators Health Plan; the SEHBP NJ Direct 10 plan as adopted and implemented by the School Employees' Health Benefits Commission for the plan year that began January 1, 2020; and the SEHBP NJ Direct 15 plan as adopted and implemented by the School Employees' Health Benefits Commission for the plan year that began January 1, 2020.

Employers that participate in the School Employees' Health Benefits Program shall retain the ability to enter the program for medical only plans and may separately purchase pharmacy and dental benefits outside of the program without limitation or restriction.

(2) Only the plans set forth in this section shall be offered by the program regardless of any collective negotiations agreement between a participating employer and its employees in effect on the effective date of this act, P.L.2020, c.44, that provides for enrollment in other plans that were offered by the program prior to January 1, 2021.

b. Prior to January 1, 2021, the program, through the Division of Pensions and Benefits in the Department of the Treasury, shall provide for an enrollment period during which all employees who commenced employment prior to the effective date of this act shall be required to select affirmatively one of the three plans specified in subsection a. of this section. If an employee fails to select affirmatively a plan during this enrollment period, the program shall enroll the employee, and the employee's dependents if any, in the New Jersey Educators Health Plan for the plan year beginning January 1, 2021 and ending December 31, 2021.

During the enrollment period, any person who is enrolled in a plan offered by the program and who is paying the full cost of health care benefits coverage shall also be required to select affirmatively one of the three plans specified in subsection a. of this section. If a person fails to select affirmatively a plan during this enrollment period, the program shall enroll the person, and the person's dependents if any, in the New Jersey Educators Health Plan for the plan year beginning January 1, 2021 and ending December 31, 2021. Any such person shall continue to pay the full cost of coverage and shall not be subject to the contribution schedule or any mandatory enrollment period as set forth in this section.

c. (1) Beginning on January 1, 2021, an employee commencing employment on or after the effective date of this act but before January 1, 2028 who does not waive coverage shall be enrolled by the program, with

the employee's dependents if any, in the New Jersey Educators Health Plan, or the Garden State Health Plan if selected by the employee. The employee shall remain enrolled in either the New Jersey Educators Health Plan or the Garden State Health Plan selected by the employee at the annual open enrollment for each plan year through the plan year that ends December 31, 2027, provided that the employee during this period may waive coverage as an employee and select and change the type of coverage received under the plan following a qualifying life event, in accordance with the program regulations.

The enrollment required by this paragraph shall not include an employee who commenced employment prior to the effective date of P.L.2020, c.44 and who did not enroll, who waived enrollment, or who was not eligible to enroll prior to that effective date for health care coverage provided by the employer, including, but not limited to, an employee who commenced employment as a part-time employee prior to the effective date of P.L.2020, c.44. If such an employee was required to enroll prior to the effective date of P.L.2021, c.163 in accordance with this paragraph, the employee shall be notified promptly in writing that enrollment is not mandatory and shall be provided promptly with an opportunity to select enrollment in another health care benefits plan. For the plan year beginning January 1, 2028, the employee may select, during any open enrollment period or at such other times or under such conditions as the program may provide, any plan offered by the program.

(2) For the plan year beginning January 1, 2021, the program shall enroll a retiree who is not Medicare-eligible, and the retiree's dependents if any, in the New Jersey Educators Health Plan for health care benefits coverage as a retiree, if the retiree does not waive coverage. The retiree shall remain enrolled in that plan for each plan year through the plan year that ends December 31, 2027 or until the retiree becomes eligible for Medicare, whichever comes first. The retiree who becomes eligible for Medicare shall no longer be eligible for enrollment in the New Jersey Educators Health Plan, except that any dependent of the retiree who is not eligible for Medicare may remain eligible for coverage under the New Jersey Educators Health Plan. For the plan year beginning January 1, 2028, that retiree who is not Medicare-eligible may select, during any open enrollment period or at such other times or under such conditions as the program may provide, any plan offered by the program.

(3) Except as otherwise provided in this subsection or subsection b. of this section, selection of a plan shall be at the sole discretion of the employee or retiree who is not Medicare-eligible.

d. Beginning January 1, 2022 and for each plan year thereafter, the program shall offer a fourth plan to be called the Garden State Health Plan. The plan shall be developed by the School Employees' Health Benefits Plan Design Committee. If the committee does not adopt a design for the Garden State Health Plan by December 31, 2020, the Division of Pensions and Benefits in the Department of the Treasury may develop the Garden State Health Plan. The program shall provide an enrollment period prior to January 1, 2022.

The Garden State Health Plan shall provide medical and prescription drug benefits that are equivalent to the level of medical and prescription drug benefits provided by the New Jersey Educators Health Plan, except that the benefits under the Garden State Health Plan shall be available only from providers located in the State of New Jersey.

Access to a service provider that is located outside of the State shall be available only under such terms, conditions, restrictions, and limitations as the plan design committee or the division, as appropriate, shall provide in the plan governing documents.

Employers that participate in the School Employees' Health Benefits Program shall retain the ability to enter the program for medical only plans and may separately purchase pharmacy and dental benefits outside of the program without limitation or restriction.

e. The plan design of the New Jersey Educators Health Plan, the Garden State Health Plan, the NJ Direct 10 plan, and the NJ Direct 15 plan as those plan designs are specified in subsections a., d., and f. of this section shall remain unchanged until December 31, 2027. No change in the plan design of those plans shall be made before that date unless such a change in plan design is required by federal or State law to governmental health care benefits plans or to both governmental and non-governmental health care benefits plans.

For the plan year that commences January 1, 2028 and for each plan year thereafter, the plan design of the New Jersey Educators Health Plan, the Garden State Health Plan, the NJ Direct 10 plan, and the NJ Direct 15 plan as those plan designs are specified in subsections a., d., and f. of this section may be modified by the School Employees' Health Benefits Plan Design Committee.

Modifications to plan design of the plans set forth in this section made by the School Employees' Health Benefits Plan Design Committee or the State Treasurer pursuant to section 7 of this act shall be implemented by the program for the purposes of this section commencing January 1, 2024.

f. The plan design of the New Jersey Educators Health Plan shall be the following:

In Network Benefits
Coverage
Member Coinsurance: 10%, Applies Only to Emergency Transportation Care and Durable Medical Equipment
Deductible:N/A
Out-of-Pocket Maximum:$500 Single/ $1,000 Family (covers all in network copayments, coinsurance, and deductible)
Emergency Room Copayment:$125 (To be Waived if Admitted)
PCP Office Visit Copayment:$10
Specialist Office Visit Copayment$15Out-of-Network Benefits
Coverage
Member Coinsurance:30% of the Out-of-Network Fee Schedule
Deductible:$350 / $700
Out-of-Pocket Maximum:$2,000 Single / $5,000 Family Routine Lab:Paid at Out-of-Network Benefit Level
Out-of-Network Fee Schedule:200% of CMS - MedicarePharmacy
Out-of-Pocket Maximum:$1,600 Single / $3,200 Family (Indexed Annually Pursuant to Federal Law)Generic Copayment:$5 Retail 30 Day Supply / $10 Mail 90 Day SupplyBrand Copayment:$10 Retail 30 Day Supply/ $20 Mail 90 Day SupplyMandatory Generic:Member Pays Difference in Cost Between Generic and Brand, Plus Brand CopaymentFormulary: Closed Formulary as contracted with the Pharmacy Benefit Manager and the School Employees' Health Benefits CommissionOther
Chiropractic, Physical Therapy, and Acupuncture:
Subject to the same Out-of-Network Limits as for the State Health Benefits Program as were in effect on June 1, 2020 to take effect as of July 1, 2020, or as soon thereafter as reasonably practicable.

Under a patient centered medical home model, there shall be no office visit copay for primary care for participants who select and commit to a patient centered medical home for primary care in accordance with plan rules and regulations.

g. Any plan offered by the School Employees' Health Benefits Program shall require that chiropractic, physical therapy, and acupuncture benefits shall be subject to the same out-of-network limits as for the State Health Benefits Program that were in effect on June 1, 2020 to take effect as of July 1, 2020 or as soon thereafter as reasonably practicable.

h. Notwithstanding any provision of law, rule, or regulation to the contrary, for any period of time during which the employer does not have to pay a premium or periodic charge for any health care benefits plan or program provided to its employees through the School Employees' Health

Benefits Program, an employee enrolled in such plan or program shall not be required to make the employee's contribution toward that premium or periodic charge during that period of time. In the event that a collective negotiations agreement specifically addresses a premium holiday the collective negotiations agreement shall be controlling.

3. Section 8 of P.L.2020, c.44 is amended to read as follows:

8. With regard to employers that have collective negotiation agreements in effect on the effective date of this act, P.L.2020, c.44, that include health care benefits coverage available to employees when the net cost, which is the cost after deducting employee contributions, to the employer is lower than the cost to the employer would be compared to the New Jersey Educators Health Plan, the employer and the majority representative shall engage in collective negotiations, that include all terms and conditions of employment, to substantially mitigate the financial impact of the difference as agreed to by the parties, which may include modifications to plan level offerings or contributions for the New Jersey Educators Health Plan or the equivalent plan, or to both plan level offerings and contributions. Notwithstanding any provision of law or regulation to the contrary, plan level offerings or contributions for the New Jersey Educators Health Plan or the equivalent plan, or both plan level offerings and contributions, may be modified pursuant to collective negotiations required by this section.

Any school district with an increase in net cost as defined above as a result of changes by P.L.2020, c.44 (C.52:14-17.46.13 et al.) shall commence negotiations immediately, unless mutually agreed upon by the employer and the majority representative to opt to substantially mitigate the financial impact to the employer as part of the next collective negotiations agreement which may include, but not be limited to, salary increases, step guides, or other terms and conditions of employment.

4. This act shall take effect immediately.

Approved July 7, 2021.

CHAPTER 164

AN ACT concerning a Statewide database of certified payroll information filed by public works contractors and amending P.L.1963, c.150.

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

1. Section 9 of P.L.1963, c.150 (C.34:11-56.33) is amended to read as follows:

C.34:11-56.33 Filing of written statements of amounts due workers; database of certified payroll information.

9. (a) Before final payment is made by or on behalf of any public body or before any lessee to whom the public body is leasing a property or premises or any lessor from whom the public body is leasing or will be leasing a property or premises makes such payment, of any sum or sums due on a public work, it shall be the duty of the treasurer of the public body or other officer or person charged with the custody and disbursement of the funds of the public body, the lessee to whom the public body is leasing a property or premises or the lessor from whom the public body is leasing or will be leasing a property or premises, as the case may be, to require the contractor and subcontractor to file written statements with the public body and the commissioner in a form satisfactory to the commissioner certifying to the amounts then due and owing from such contractor and subcontractor filing such statement to any and all workers for wages due on account of the public work, setting forth therein the names of the persons whose wages are unpaid and the amount due to each respectively, which statement shall be verified by the oath of the contractor or subcontractor, as the case may be, that he has read such statement subscribed by him, knows the contents thereof, and that the same is true of his own knowledge; provided, however, that nothing herein shall impair the right of a contractor to receive final payment because of the failure of any subcontractor to comply with provisions of this act.

(b) In case any worker shall have filed a protest in writing within three months from the date of the occurrence of the incident complained of with the commissioner, objecting to the payment to any contractor to the extent of the amount or amounts due or to become due to the worker for wages for work performed on a public work, the commissioner may direct the fiscal or financial officer of the public body or other person charged with the custody and disbursements of the funds of the public body, the lessee to whom the public body is leasing a property or premises or the lessor from whom the public body is leasing or will be leasing a property or premises, as the case may be, to deduct from the whole amount of any payment, the sum or sums

admitted by any contractor in such statement or statements so filed to be due and owing by him on account of wages earned on such public work.

Such fiscal or financial officer, the lessee to whom the public body is leasing a property or premises or the lessor from whom the public body is leasing or will be leasing a property or premises, shall withhold the amount so deducted for the benefit of the worker whose wages are unpaid as shown by the verified statement filed by such contractor, and shall pay directly to any worker the amount shown by such statement to be due to him for such wages. Such payment shall thereby discharge the obligation of the contractor to the person receiving such payment to the extent of the amount thereof.

2. Section 13 of P.L.1963, c.150 (C.34:11-56.37) is amended to read as follows:

C.34:11-56.37 List relative to contractors performing prevailing wage public work; database of certified statements.

13. a. In the event that the commissioner shall determine, after investigation, that any contractor or subcontractor has failed to pay the prevailing wage he shall thereupon list and keep on record the name of such contractor or subcontractor and forthwith give notice by mail of such list to any public body who shall request the commissioner so to do. Where the person responsible denies that a failure to pay the prevailing wage has occurred, he shall have the right to apply to the commissioner for a hearing which must be afforded and a decision rendered within 48 hours of the request for a hearing. If the commissioner rules against the petitioning party he shall have the right to apply for injunctive relief in the Superior Court against the listing by the commissioner.

b. The commissioner shall create, maintain, and distribute an informational list for contractors and subcontractors who bid on and perform public work, which includes but need not be limited to wage payment, recordkeeping, and registration requirements, and applicable penalties, pursuant to the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) and "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). The commissioner shall prominently display the informational list on a website maintained by the Department of Labor and Workforce Development and shall distribute to any contractor, subcontractor, or public body, upon request, the informational list, as well as the list of the names of contractors and subcontractors who have failed to pay prevailing wages as determined pursuant to subsection a. of this section, or who have failed to pay any State employer payroll tax.

c. The commissioner shall create, maintain, and distribute an informational list of labor organizations that represent workers who engage in public work, which shall contain information about required hourly rates, required fringe benefit rates, and regions in which the labor organizations represent workers. The commissioner shall prominently display the informational list on a website maintained by the Department of Labor and Workforce Development and shall distribute to any contractor, subcontractor, labor organization, or public body, upon request, the informational list for use on public work, including projects for which the cost is below the prevailing wage contract threshold amount.

d. The commissioner shall create and maintain, in a manner accessible to the public on the website of the Department of Labor and Workforce Development, a Statewide database of the certified statements of contractors and subcontractors who bid on and perform public work that are required to be filed with the public body and the commissioner in accordance with subsection (a) of section 9 of P.L.1963, c.150 (C.34:11-56.33). The commissioner shall redact any personal identifying information of employees, and any other information as may be required by law, prior to a statement's publication on the database.

3. This act shall take effect on the first day of the sixth month next following enactment, except the commissioner may take such action as is necessary for the implementation of this act.

Approved July 8, 2021.

CHAPTER 165

AN ACT concerning enforcement of various laws regarding employee misclassification and stop-work orders, and amending various parts of the statutory law.

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

1. Section 1 of P.L.2019, c.194 (C.34:1A-1.11) is amended to read as follows:

C.34:1A-1.11 Definitions relative to suspension, revocation of certain employer licenses.

1. As used in this act:

"Agency" means any agency, department, board or commission of this State, or of any political subdivision of this State, that issues a license for purposes of operating a business in this State.

"Commissioner" means the Commissioner of Labor and Workforce Development, and shall include any designee, authorized representative, or agent acting on behalf of the commissioner.

"License" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this State, and includes, but is not limited to:

(1) A certificate of incorporation pursuant to the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq.;

(2) A certificate of authority pursuant to N.J.S.14A:13-1 et seq.;

(3) A statement of qualification or a statement of foreign qualification pursuant to the "Uniform Partnership Act (1996)," P.L.2000, c.161 (C.42:1A-1 et al.);

(4) A certificate of limited partnership or a certificate of authority pursuant to the "Uniform Limited Partnership Law (1976)," P.L.1983, c.489 (C.42:2A-1 et seq.);

(5) A certificate of formation or certified registration pursuant to the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.); and

(6) Any license, certificate, permit or registration pursuant to R.S.48:16-1 et seq., R.S.48:16-13 et seq.; the "New Jersey Alcoholic Beverage Control Act," R.S.33:1-1 et seq.; section 4 of P.L.2001, c.260 (C.34:8-70); P.L.1971, c.192 (C.34:8A-7 et seq.); section 12 of P.L.1975, c.217 (C.52:27D-130); section 14 of P.L.1981, c.1 (C.56:8-1.1); or "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.).

"State wage, benefit and tax laws" means:

(1) P.L.1965, c.173 (C.34:11-4.1 et seq.);

(2) The "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.);

(3) The "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.);

(4) The workers' compensation law, R.S.34:15-1 et seq.;

(5) The "unemployment compensation law," R.S.43:21-1 et seq.;

(6) The "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

(7) P.L.2008, c.17 (C.43:21-39.1 et al.);

(8) The "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; and

(9) P.L.2018, c.10 (C.34:11D-1 et seq.).

2. Section 2 of P.L.2009, c.194 (C.34:1A-1.12) is amended to read as follows:

C.34:1A-1.12 Commissioner; actions relative to employer violations.

2. a. (1) If the commissioner determines that an employer has violated any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or failed to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or violated any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner shall, as an alternative to, or in addition to, any other actions taken in the enforcement of those laws, notify the employer of the determination and have an audit of the employer and any successor firm of the employer conducted not more than 12 months after the determination.

(2) If the commissioner is notified pursuant to subsection g. of this section of a conviction of an employer, the commissioner shall, as an alternative to, or in addition to, any other actions taken in the enforcement of the laws violated by the employer, have an audit of the employer and any successor firm of the employer conducted not more than 12 months after receipt of the notification.

b. If, in an audit conducted pursuant to subsection a. of this section, the commissioner determines that the employer or any successor firm to the employer has continued in its failure to maintain or report records as required by those laws or continued in its failure to pay wages, benefits, taxes or other contributions or assessments as required by those laws, or if the commissioner is notified pursuant to subsection g. of this section of a conviction of the employer and the offense resulting in the conviction occurred subsequent to an audit conducted pursuant to subsection a. of this section, the commissioner:

(1) May, after affording the employer or successor firm notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), issue a written determination directing any appropriate agency to suspend any one or more licenses that are held by the employer or successor firm, for a period of time determined by the commissioner. In determining the length of a suspension, the commissioner shall consider any of the following factors which are relevant:

(a) The number of employees for which the employer or successor firm failed to maintain or report required records and pay required wages, benefits, taxes or other contributions or assessments;

(b) The total amount of wages, benefits, taxes or other contributions or assessments not paid by the employer or successor firm;

(c) Any other harm resulting from the violation;

(d) Whether the employer or successor firm made good faith efforts to comply with any applicable requirements;

(e) The duration of the violation;

(f) The role of the directors, officers or principals of the employer or successor firm in the violation;

(g) Any prior misconduct by the employer or successor firm; and

(h) Any other factors the commissioner considers relevant; and

(2) Shall conduct a subsequent audit or inspection of the employer or any successor firm of the employer not more than 12 months after the date of the commissioner's written determination.

c. If, in the subsequent audit or inspection conducted pursuant to subsection b. of this section, the commissioner determines that the employer or successor firm has continued in its failure to maintain or report records as required pursuant to State wage, benefit and tax laws, as defined in section 1 of this act, and continued in its failure to pay wages, benefits, taxes or other contributions or assessments as required by those laws, or if the commissioner is notified pursuant to subsection g. of this section of a conviction of the employer for an offense occurring after the audit conducted pursuant to subsection b. of this section, the commissioner, after affording the employer or successor firm notice and an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall issue a written determination directing any appropriate agency to permanently revoke any one or more licenses that are held by the employer or any successor firm to the employer and that are necessary to operate the employer or successor firm.

d. Upon receipt of any written determination of the commissioner directing an agency to suspend or revoke a license pursuant to this section, and notwithstanding any other law, the agency shall immediately suspend or revoke the license.

e. In instances where an employee leasing company has entered into an employee leasing agreement with a client company pursuant to P.L.2001, c.260 (C.34:8-67 et seq.), any written determination by the commissioner directing agencies to suspend an employer license pursuant to subsection b. of this section, or revoke an employer license pursuant to subsection c. of this section, for a failure or continued failure to keep records regarding, and to pay, wages, benefits and taxes pursuant to State wage, benefit and tax laws, shall be for the suspension or revocation of the licenses of the client company

and not the licenses of the employee leasing company if the commissioner determines that the failure or continued failure was caused by incomplete, inaccurate, misleading, or false information provided to the employee leasing company by the client company. Nothing in this subsection shall be construed as diminishing or limiting the authority or obligation of the commissioner to rescind the registration of an employee leasing company pursuant to the provisions of section 10 of P.L.2001, c.260 (C.34:8-76).

f. If, in the course of an audit or inspection conducted pursuant to this section, the commissioner discovers that an employee of the employer or of any successor firm of the employer has failed to provide compensation to the employee as required under any of the State wage and hour laws as defined in R.S.34:11-57, then the commissioner shall initiate a wage claim on behalf of the employee pursuant to R.S.34:11-58.

g. Upon the conviction of an employer under subsection a. of section 10 of P.L.1999, c.90 (C.2C:40A-2), section 13 of P.L.2019, c.212 (C.34:11-58.6), subsection a. of section 10 of P.L.1965, c.173 (C.34:11-4.10), subsection a. of section 25 of P.L.1966, c.113 (C.34:11-56a24), or N.J.S.2C:20-2 if the property stolen consists of compensation the employer failed to provide to an employee under any State wage and hour law as defined in R.S.34:11-57, the prosecutor or the court shall notify the commissioner of the employer's conviction.

h. In the alternative to proceedings under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in accordance with the provisions of subsection b. of this section, and in addition to any other actions taken in the enforcement of the laws violated by any employer, the commissioner shall have the authority, to be exercised in the commissioner's sole discretion, to bring enforcement actions for any violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), in the Office of Administrative Law or in the Superior Court for the county in which the violation occurred. When the commissioner, including any of the commissioner's authorized representatives in the Office of the Attorney General, brings an action in the Office of Administrative Law or Superior Court which seeks relief on behalf of any individual for any of the above violations, communications between members of the Attorney General's office and that individual shall be privileged as would be a communication between an attorney and a client.

i. In any enforcement action brought under subsection h. of this section, the commissioner, including any of the commissioner's authorized

representatives in the Office of the Attorney General, may initiate the action by making, signing, and filing a verified complaint against the employer. If the action is brought by the commissioner in Superior Court, a jury trial may be requested upon the application of any party. If the commissioner is a prevailing plaintiff in the action, any and all remedies available by law shall be available on behalf of any named or unnamed victims as if the claims were brought directly by the victims. In addition to any remedies sought on behalf of the named or unnamed victims, the commissioner shall be entitled to seek any fines, penalties or administrative assessments authorized by law, including but not limited to penalties for misclassification set forth in section 1 of P.L.2019, c.373 (C.34:1A-1.18). If the suit seeks relief for one or more unnamed members of a class, the commissioner shall have the discretion to settle the suit on the terms the commissioner deems appropriate. If the commissioner is a prevailing plaintiff, the court shall award reasonable attorney's fees and litigation and investigation costs.

j. At any time after the filing of any verified complaint under subsection i. of this section, or whenever it appears to the commissioner that an employer has engaged in, is engaging in, or is about to engage in, any violation of a State wage, benefit or tax law, including a violation of R.S.34:15-79 or any failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or has violated any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner may proceed against the employer in a summary manner in the Superior Court of New Jersey to obtain an injunction prohibiting the employer from continuing or engaging in the violation or doing any acts in furtherance of the violation, to compel compliance with any of the provisions of this Title, or to prevent violations or attempts to violate any of those provisions, or attempts to interfere with or impede the enforcement of those provisions or the exercise or performance of any power or duty under this Title. Prospective injunctive relief against an employer shall also be available as a remedy to the commissioner as a prevailing plaintiff in any enforcement action under subsection i. of this section.

3. Section 1 of P.L.2019, c.372 (C.34:1A-1.17) is amended to read as follows:

C.34:1A-1.17 Entrance into place of business, employment; stop-work order.

1. a. The Commissioner of Labor and Workforce Development and any agent of the commissioner, upon receipt of a complaint or through routine investigation for a violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations

required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), is authorized to enter, during usual business hours, the place of business or employment of any employer of the individual to determine compliance with those laws, and for that purpose may examine payroll and other records and interview employees, call hearings, administer oaths, take testimony under oath and take interrogatories and oral depositions.

b. The commissioner may issue subpoenas for the attendance of witnesses and the production of books and records. Any entity that fails to furnish information required to the commissioner or agent of the commissioner upon request, or who refuses to admit the commissioner or agent to the place of employment of the employer, or who hinders or delays the commissioner or agent in the performance of duties in the enforcement of this section, may be fined not less than $1,000 and shall be guilty of a disorderly persons offense. Each day of the failure to furnish the records to the commissioner or agent shall constitute a separate offense, and each day of refusal to admit, of hindering, or of delaying the commissioner or agent shall constitute a separate offense.

In addition to the foregoing fines, and in addition to or as an alternative to any criminal proceedings, if an entity fails to comply with any subpoena lawfully issued, or upon the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the commissioner may apply to the Superior Court to compel obedience by proceedings for contempt, in the same manner as in a failure to comply with the requirements of a subpoena issued from the court or a refusal to testify in the court.

c. (1) If the commissioner determines, after either an initial determination as a result of an audit of a business or an investigation pursuant to subsection a. of this section, that an employer is in violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner may issue a stop-work order against the employer requiring cessation of all business operations of the employer at one or more worksites or across all of the employer's worksites and places of business. The stop-work order may be issued only against the employer found to be in violation or non-compliance. The commissioner shall serve a notification of intent to issue a stop-work order on the employer at the place of business or, for a particular employer worksite, at that worksite at least seven days prior to the issuance of a stop-work order. The order shall be effective when served upon the employer at the place of business or, for a particular employer worksite, when

served at that worksite. The order shall remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has come into compliance and has paid any penalty deemed to be satisfactory to the commissioner, or after the commissioner determines, in a hearing held pursuant to paragraph (2) of this subsection, that the employer did not commit the act on which the order was based. The stop-work order shall be effective against any successor entity engaged in the same or equivalent trade or activity that has one or more of the same principals or officers as the corporation, partnership, limited liability company, or sole proprietorship against which the stop-work order was issued. The commissioner may assess a civil penalty of $5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order. A request for hearing shall not automatically stay the effect of the order.

(2) An employer who is subject to a stop-work order shall, within 72 hours of its receipt of the notification, have the right to appeal to the commissioner in writing for an opportunity to be heard and contest the stop-work order.

Within seven business days of receipt of the notification from the employer, the commissioner shall hold a hearing to allow the employer to contest the issuance of a stop-work order. The department and the employer may present evidence and make any arguments in support of their respective positions on the imposition of the misclassification penalty. If a hearing is not held within seven business days of receipt of the notification from the employer, an administrative law judge shall have the authority to release the stop-work order. The commissioner shall issue a written decision within five business days of the hearing either upholding or reversing the employer's stop-work order. The decision shall include the grounds for upholding or reversing the employer's stop-work order. If the employer disagrees with the written decision, the employer may appeal the decision to the commissioner, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

If the employer does not request an appeal to the commissioner in writing, the stop-work order shall become a final order after the expiration of the 72-hour period. The authority to assess a civil penalty under paragraph (1) of this subsection shall be in addition to any misclassification penalty assessed under section 1 of P.L.2019, c.373 (C.34:1A-1.18) and all other enforcement provisions or assessments issued for the employer's violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-

21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.) The commissioner may compromise any civil penalty assessed under this section in an amount the commissioner determines to be appropriate.

Once the stop-work order becomes final, any employee affected by a stop-work order issued pursuant to this section shall be entitled to pay from the employer for the first ten days of work lost because of the stop-work. Upon request of any employee not paid wages, the commissioner can take assignment of the claim and bring any legal action necessary to collect all that is due.

(3) As an alternative to issuing a stop-work order in accordance with paragraph (1) of this subsection, if the commissioner determines, after an investigation pursuant to subsection a. of this section, that an employer is in violation of R.S.34:15-79, the commissioner may provide and transfer all details and materials related to the investigation under this section to the Director of the Division of Workers' Compensation for any enforcement of penalties or stop-work orders the director determines are appropriate.

d. For purposes of this section:

"Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person in this State. For the purposes of this subsection the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation. In addition, any members of a partnership or limited liability company and any agents having the management of such partnership or limited liability company shall be deemed to be employers of the employees of the partnership or limited liability company.

"Employee" means any person suffered or permitted to work by an employer, except a person performing services for remuneration whose services satisfy the factors set forth in subparagraphs (A),(B), and (C) of R.S.43:21-19(i)(6).

"Employ" means to suffer or permit to work.

"State wage, benefit and tax laws" means "State wage, benefit and tax laws" as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

e. Nothing in this section shall preclude an employer from seeking injunctive relief from a court of competent jurisdiction if the employer can demonstrate that the stop-work order would be issued or has been issued in error.

4. Section 2 of P.L.2019, c.158 (C.34:20-7.1) is amended to read as follows:

C.34:20-7.1 Determination of compliance; subpoena; stop-work order.

2. a. The Commissioner of Labor and Workforce Development and any agent of the commissioner, upon receipt of a complaint or through a routine investigation for a violation of any State wage, benefit and tax law, as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11), including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations as provided in R.S.43:21-7 and R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.), is authorized to enter, during usual business hours, the place of business or employment of any employer of the individual to determine compliance with the wage and hour laws, R.S.34:15-79, R.S.43:21-7, or R.S.43:21-14, and for that purpose may examine payroll and other records and interview employees, call hearings, administer oaths, take testimony under oath and take interrogatories and oral depositions.

b. The commissioner may issue subpoenas for the attendance of witnesses and the production of books and records. Any entity that fails to furnish information required by the commissioner or agent of the commissioner upon request, or who refuses to admit the commissioner or agent to the place of employment of the employer, or who hinders or delays the commissioner or agent in the performance of duties in the enforcement of this section, may be fined not less than $1,000 and shall be guilty of a disorderly persons offense. Each day of the failure to furnish the time and wage records to the commissioner or agent shall constitute a separate offense, and each day of refusal to admit, of hindering, or of delaying the commissioner or agent shall constitute a separate offense.

In addition to the foregoing fines, and in addition to or as an alternative to any criminal proceedings, if an entity fails to comply with any lawfully issued subpoena, or upon the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the commissioner or the commissioner's designee may apply to the Superior Court to compel obedience by proceedings for contempt, in the same manner as in a failure to comply with the requirements of a subpoena issued from the court or a refusal to testify in the court.

c. (1) If the commissioner determines, after either an initial determination as a result of an audit of a business or an investigation pursuant to subsection a. of this section, that an employer is in violation of any State wage, benefit and tax law, as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11), including but not limited to a violation of R.S.34:15-79, or has failed to meet obligations as provided in R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or

P.L.1989, c.293 (C.34:15C-1 et al.), the commissioner may issue a stop-work order against the employer requiring cessation of all business operations of the employer at one or more worksites or across all of the employer's worksites and places of business. The stop-work order may be issued only against the employer found to be in violation or non-compliance. If a stop-work order has been issued against a subcontractor pursuant to this subsection, the general contractor shall retain the right to terminate the subcontractor from the project. The order shall be effective when served upon the employer at the place of business or, for a particular employer worksite, when served at that worksite. The order shall remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has come into compliance and has paid any penalty deemed to be satisfactory to the commissioner, or after the commissioner determines, in a hearing held pursuant to paragraph (2) of this subsection, that the employer did not commit the act on which the order was based. The stop-work order shall be effective against any successor entity engaged in the same or equivalent trade or activity that has one or more of the same principals or officers as the corporation, partnership, limited liability company, or sole proprietorship against which the stop-work order was issued.

(2) An employer who is subject to a stop-work order shall have the right to appeal to the commissioner. The contractor may notify the Director of the Division of Wage and Hour Compliance of its request for an opportunity to be heard and contest the stop-work order in writing within 72 hours of its receipt of the notification. A request for hearing shall not automatically stay the effect of the order.

Within seven business days of receipt of the notification from the contractor, the director shall hold a hearing to allow the contractor to contest the issuance of a stop-work order. The director shall permit the contractor to present evidence at the hearing. If the director fails to hold a hearing within seven business days of receipt of the notification from the contractor, an administrative law judge shall have the authority to release the stop-work order.

The director shall issue a written decision within five business days of the hearing either upholding or reversing the contractor's stop-work order. The decision shall include the grounds for upholding or reversing the contractor's stop-work order.

If the contractor disagrees with the written decision, the contractor may appeal the decision to the commissioner, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

If the employer does not request an appeal to the commissioner in writing, the stop-work order shall become a final order after the expiration of the 72-hour period. The authority to assess a civil penalty under paragraph (1) of this subsection shall be in addition to any misclassification penalty assessed under this subsection and all other enforcement provisions or assessments issued for the employer's violation of any State wage, benefit and tax law, including but not limited to a violation of R.S.34:15-79, or a failure to meet obligations required by R.S.43:21-7 or R.S.43:21-14, or for a violation of any provision of P.L.1940, c.153 (C.34:2-21.1 et seq.) or P.L.1989, c.293 (C.34:15C-1 et al.). The commission may compromise any civil penalty assessed under this section in an amount the commissioner determines to be appropriate.

Once the stop-work order becomes final, any employee affected by a stop-work order issued pursuant to this section shall be entitled to pay from the employer for the first ten days of work lost because of the stop-work order. Upon request of any employee not paid wages, the commissioner may take assignment of the claim and bring any legal action necessary to collect all that is due.

(3) As an alternative to issuing a stop-work order in accordance with paragraph (1) of this subsection, if the commissioner determines, after an investigation pursuant to subsection a. of this section, that an employer is in violation of R.S.34:15-79, the commissioner may provide and transfer all details and materials related to the investigation under this section to the Director of the Division of Workers' Compensation for any enforcement of penalties or stop-work orders the director determines are appropriate.

5. Section 11 of P.L.1963, c.150 (C.34:11-56.35) is amended to read as follows:

C.34:11-56.35 Penalties, stop-work orders.

11. (a) Any employer who willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act, or fails to make, keep, and preserve any records as required under the provisions of this act, or falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand, or fails to timely respond to or furnish records required by a subpoena issued by the commissioner, or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this act to the commissioner upon demand, or pays or agrees to pay wages at a rate less than the rate applicable under this act or otherwise violates any provision of this act or of any regulation or order issued under this act shall be guilty of a disorderly persons offense and

shall, upon conviction therefor, be fined not less than $100.00 nor more than $1,000 or be imprisoned for not less than 10 nor more than 90 days, or by both such fine and imprisonment. Each week, in any day of which a worker is paid less than the rate applicable to him under this act and each worker so paid, shall constitute a separate offense. In addition to the foregoing fines, and in addition to or as an alternative to any criminal proceedings, if an employer fails to comply with any lawfully issued subpoena, or on the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the commissioner may apply to the Superior Court to compel obedience by proceedings for contempt, in the same manner as in failure to comply with the requirements of a subpoena issued from the court or a refusal to testify in the court.

(b) As an alternative to or in addition to any other sanctions provided by law for violations of any provision of P.L.1963, c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and Workforce Development finds that an employer has violated that act, the commissioner is authorized to assess and collect administrative penalties, up to a maximum of $2,500 for a first violation and up to a maximum of $5,000 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of

Workplace Standards in the Department of Labor and Workforce Development.

(c) When the Commissioner of Labor and Workforce Development finds that the employer has violated provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may refer the matter to the Attorney General or his designee for investigation and prosecution. Nothing in this subsection shall be deemed to limit the authority of the Attorney General to investigate and prosecute violations of the New Jersey Code of Criminal Justice, nor to limit the commissioner's ability to refer any matter for criminal investigation or prosecution.

(d) If the commissioner makes an initial determination that an employer has violated the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying wages at rates less than the rates applicable under that act, whether or not the commissioner refers the matter to the Attorney General or other appropriate prosecutorial authority for investigation or prosecution pursuant to subsection (c) of this section, the commissioner may immediately issue a stop-work order to cease all business operations at one or more worksites or across all of the employer's worksites and places of business. The stop-work order may be issued only against the employer found to be in violation or non-compliance. If a stop-work order has been issued against a subcontractor pursuant to this subsection, the general contractor shall retain the right to terminate the subcontractor from the project. The stop-work order shall remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has agreed to pay wages at the required rate and has paid any wages due and any penalty deemed satisfactory to the commissioner. Once the stop-work order is issued, any employee affected by a stop-work order issued pursuant to this section shall be entitled to pay from the employer for the first ten days of work lost because of the stop-work order. Upon request of any employee not paid wages, the commissioner can take assignment of the claim and bring any legal action necessary to collect all that is due. As a condition for release from a stop-work order, the commissioner may require the employer to file with the department periodic reports for a probationary period that shall not exceed two years that demonstrate the employer's continued compliance with the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). The commissioner may assess a civil penalty of $5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order. That penalty shall be collected by the commissioner in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

6. Section 8 of P.L.2019, c.212 (C.34:11-58.1) is amended to read as follows:

C.34:11-58.1 Failure of employer to comply.

8. a. If an employer fails to comply with a final determination of the commissioner or a judgment of a court, including a small claims court, made under the provisions of State wage and hour laws or of section 10 of P.L.1999, c.90 (C.2C:40-2), to pay an employee any wages owed or damages awarded within ten days of the time that the determination or judgement requires the payment, the commissioner may do either or both of the following:

(1) issue, in the manner provided in subsection b. of section 2 of P.L.2009, c.194 (C.34:1A-1.12), a written determination directing any appropriate agency to suspend one or more licenses held by the employer or any successor firm of the employer until the employer complies with the determination or judgement; or

(2) issue a stop-work order against the violators requiring the cessation of all business operations at one or more worksites or across all of the employer's worksites and places of business. The stop-work order shall be effective when served upon the violator or at a place of business or employment by posting a copy of the stop-work order in a conspicuous location at the place of business or employment. The stop-work order shall remain in effect until the commissioner issues an order releasing the stop-work order upon a finding that the violation has been corrected. As a condition of release of a stop-work order under this section, the commissioner may require the employer against whom the stop-work order had been issued to file with the department periodic reports for a probationary period of two years. The commissioner may assess a civil penalty of $5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order. That penalty shall be collected by the commissioner in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. Stop-work orders and any penalties imposed under a stop-work order against a corporation, partnership, limited liability corporation, or sole proprietorship shall be effective against any successor entity that has one or more of the same principals or officers as the corporation, partnership, or sole proprietorship against which the stop-work order was issued and that is engaged in the same or equivalent trade or activity.

c. Any employee affected by a stop-work order issued pursuant to this section shall be paid by the employer for the first ten days of work lost because of the stop-work order.

d. A rebuttable presumption that an employer has established a successor entity shall arise if the two share at least two of the following capacities or characteristics:

(1) perform similar work within the same geographical area;

(2) occupy the same premises;

(3) have the same telephone or fax number;

(4) have the same email address or Internet website;

(5) employ substantially the same work force, administrative employees, or both;

(6) utilize the same tools, facilities, or equipment;

(7) employ or engage the services of any person or persons involved in the direction or control of the other; or

(8) list substantially the same work experience.

7. This act shall take effect immediately.

Approved July 8, 2021.

CHAPTER 166

AN ACT concerning the establishment of the "Office of Strategic Enforcement and Compliance" in the Department of Labor and Workforce Development and supplementing Title 34 of the Revised Statutes.

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

C.34:15D-33 Definitions.

1. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development, or the commissioner's designee.

"Department" means the Department of Labor and Workforce Development.

"Direct business assistance from the department" means monetary or financial assistance in any form, including but not limited to a grant or other monetary or financial benefit awarded to a person by the department to assist the

person in the conduct or operation of a business, occupation, trade, or profession in the State, in connection with the following programs:

(1) Customized training services provided pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5);

(2) Employment and training services provided pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6);

(3) Employment and training services funded by the Supplemental Workforce Fund for Basic Skills under section 1 of P.L.2001, c.152 (C.34:15D-21);

(4) Outreach and training programs for minority group members and women in construction trade occupations or other occupations utilized in the performance of public works contracts funded by the New Jersey Builders Utilization Initiative for Labor Diversity (NJBUILD) pursuant to section 1 of P.L.2009, c.313 (C.52:38-7);

(5) The New Jersey Innovation and Research Fellowship Program pursuant to section 3 of P.L.2015, c.235 (C.34:15D-26);

(6) The Apprenticeship Start-Up Grant Program pursuant to section 3 of P.L.2019, c.417 (C.34:15D-6.1);

(7) The Apprentice Assistance and Support Services Pilot Program pursuant to section 1 of P.L.2019, c.419 (C.34:15D-6.2);

(8) The New Jersey Pathways Leading Apprentices to a College Education (NJPLACE) Program pursuant to section 1 of P.L.2009, c.200 (C.34:15D-24);

(9) Any other program funded in whole or in part by the Workforce Development Partnership Fund established under section 9 of P.L.1992, c.43 (C.34:15D-9);

(10) Any program funded by or through the Department in whole or in part under the "Workforce Innovation and Opportunity Act," (29 U.S.C. s.3101 et seq.);

(11) Any program funded by or through the Department in whole or in part under the "Wagner-Peyser Act," (29 U.S.C. s.49 et seq.);

(12) The Talent Network Program pursuant to section 2 of P.L.2019, c.125 (C.34:15D-29);

(13) The industry-valued Credentials pilot program pursuant to P.L.2019, c.252 (C.34:15D-30 et seq.);

(14) The High-Growth Industry Regional Apprenticeship Development Grant Pilot Program pursuant to P.L.2019, c.314 (C.34:15D-32);

(15) The Youth Transitions to Work Partnership pursuant to P.L.1993, c.268 (C.34:15E-1 et seq.);

(16) The At-Risk Youth Mentoring Program pursuant to P.L.1999, c.279 (C.34:15F-1 et seq.); and

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(17) Any other similar program by which the department confers a monetary or financial benefit upon a person to assist the person in the conduct or operation of a business, occupation, trade or profession in the State.

"Final order" means either a final administrative determination of the Commissioner issued following adjudication of a matter as a contested case pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and the Uniform Administrative Procedure Rules, N.J.A.C.1:1, or where the department has made a finding regarding a violation of law or rule, or regarding the levying of a penalty or fee pursuant to law or rule, and has notified the violator of same and where the violator has either expressly waived the right to a hearing or has waived the right to a hearing by virtue of having failed to request same within the appropriate time limit established by either law or rule.

"Person" means a natural person or an organization, including but not limited to, a corporation, partnership, proprietorship, limited liability company, association, cooperative, joint venture, estate, trust, or government unit.

"Strategic enforcement" means a proactive, rather than purely complaint driven, approach to enforcement, which focuses agency resources to assist vulnerable employee communities and target high-violation industries with the ultimate goal of increasing the cost to violators of non-compliance, thereby changing non-compliant behavior in a sustainable way.

"State wage, benefit and tax laws" means "State wage, benefit and tax laws" as that term is defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

C.34:15D-34 "Office of Strategic Enforcement and Compliance."

2. a. There is hereby established in the department an "Office of Strategic Enforcement and Compliance," which shall oversee and coordinate across the divisions of the department and, when necessary, between the department and other State agencies and entities, strategic enforcement of State wage, benefit and tax laws, as deemed appropriate by the commissioner.

b. Each division within the department selected by the commissioner shall designate at least one employee whose duties shall include, among others, serving as a liaison with the "Office of Strategic Enforcement and Compliance."

c. The commissioner shall devote departmental resources, including those of the department's Office of Research and Information, to support a data-driven approach to the work of the "Office of Strategic Enforcement and Compliance."

d. (1) As a precondition to the award to a person of direct business assistance from the department, and as a precondition for the department to report to another State agency or entity that a business is in substantial good

standing, the department shall determine whether the person has any outstanding liability to the department under any of the statutes or rules that the department enforces, including but not limited to, for unpaid contributions to the unemployment compensation fund or the State disability benefits fund; to any individual on whose behalf the department has issued a final order for the payment of wages or benefits; or for any penalties, fees or interest due the department pursuant to a final order issued under any of the statutes or rules that the department enforces.

As an example, prior to the department reporting substantial good standing as required under the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the department shall complete the determination required by this paragraph.

If the department determines that a person has any outstanding liability to the department under any of the statutes or rules that the department enforces, the application by the person for direct business assistance from the department shall be denied, and it shall be reported to any inquiring State agency or entity that the business is not in substantial good standing. If a person is seeking the award of direct business assistance from the department, or where a report has been requested as to whether the person is in substantial good standing with the department, if the person has entered into an agreement with the department to immediately and fully comply with the statutes and rules enforced by the department and to resolve all delinquencies or deficiencies within a time period specified by the commissioner, then the commissioner may approve the award of direct business assistance from the department, or issue a report that the person is in substantial good standing with the department, notwithstanding the outstanding liability to the department under any of the statutes or rules that the department enforces.

(2) The "Office of Strategic Enforcement and Compliance" shall oversee and coordinate review processes good standing with the Department's laws and rules as determined under paragraph (1) of this subsection.

3. There is appropriated from the General Fund to the Department of Labor and Workforce Development, $1,000,000 to support and expand the "Office of Strategic Enforcement and Compliance" established within the department under this act.

4. This act shall take effect immediately.

Approved July 8, 2021.

CHAPTER 167

AN ACT concerning employee misclassification and insurance fraud and amending various parts of the statutory law.

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

1. Section 3 of P.L.1983, c.320 (C.17:33A-3) is amended to read as follows:

C.17:33A-3 Definitions.

3. As used in this act:

"Attorney General" means the Attorney General of New Jersey or his designated representatives.

"Bureau" means the Bureau of Fraud Deterrence established by section 8 of P.L.1983, c.320 (C.17:33A-8).

"Commissioner" means the Commissioner of Banking and Insurance.

"Hospital" means any general hospital, mental hospital, convalescent home, nursing home or any other institution, whether operated for profit or not, which maintains or operates facilities for health care.

"Insurance company" means:

a. Any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), or Subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.);

b. Any medical service corporation operating pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.);

c. Any hospital service corporation operating pursuant to P.L.1938, c.366 (C.17:48-1 et seq.);

d. Any health service corporation operating pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.);

e. Any dental service corporation operating pursuant to P.L.1968, c.305 (C.17:48C-1 et seq.);

f. Any dental plan organization operating pursuant to P.L.1979, c.478 (C.17:48D-1 et seq.);

g. Any insurance plan operating pursuant to P.L.1970, c.215 (C.17:29D-1);

h. The New Jersey Insurance Underwriting Association operating pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);

i. (Deleted by amendment, P.L.2010, c.32)

j. Any risk retention group or purchasing group operating pursuant to the "Liability Risk Retention Act of 1986," 15 U.S.C.s.3901 et seq.; and

k. Any health maintenance organization operating pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

"Pattern" means five or more related violations of P.L.1983, c.320 (C.17:33A-1 et seq.). Violations are related if they involve either the same victim, or same or similar actions on the part of the person or practitioner charged with violating P.L.1983, c.320 (C.17:33A-1 et seq.).

"Person" means a person as defined in R.S.1:1-2, and shall include, unless the context otherwise requires, a practitioner.

"Principal residence" means that residence at which a person spends the majority of his time. Principal residence may be an abode separate and distinct from a person's domicile. Mere seasonal or weekend residence within this State does not constitute principal residence within this State.

"Practitioner" means a licensee of this State authorized to practice medicine and surgery, psychology, chiropractic, or law or any other licensee of this State whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations or the practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

"Producer" means an insurance producer as defined in section 3 of P.L.2001, c.210 (C.17:22A-28), licensed to transact the business of insurance in this State pursuant to the provisions of the "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001, c.210 (C.17:22A-26 et seq.).

"Statement" includes, but is not limited to, any application, writing, notice, expression, statement, proof of loss, bill of lading, receipt, invoice, account, estimate of property damage, bill for services, diagnosis, prescription, hospital or physician record, X-ray, test result or other evidence of loss, injury or expense.

2. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to read as follows:

C.17:33A-4 Violations.

4. a. A person or a practitioner violates this act if he:

(1) Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit

pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(2) Prepares or makes any written or oral statement that is intended to be presented to any insurance company, the Unsatisfied Claim and Judgment Fund, or any claimant thereof in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(3) Conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled;

(4) Prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining:

(a) a motor vehicle insurance policy, that the person to be insured maintains a principal residence in this State when, in fact, that person's principal residence is in a state other than this State; or

(b) an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract;

(5) Conceals or knowingly fails to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection a. has or has not occurred; or

(6) Prepares, presents or causes to be presented to any insurer or other person, or demands or requires the issuance of, a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference, or assists, abets, solicits or conspires with another to do any of these acts. As used in this paragraph, "certificate of insurance" means a document or instrument, regardless of how titled or described, that is, or purports to be, prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. The term shall not include a policy of insurance, insurance binder, policy endorsement, or automobile insurance identification or information card.

b. A person or practitioner violates this act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of this act.

c. A person or practitioner violates this act if, due to the assistance, conspiracy or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this act.

d. A person or practitioner who is the owner, administrator or employee of any hospital violates this act if he knowingly allows the use of the facilities of the hospital by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this act.

e. A person or practitioner violates this act if, for pecuniary gain, for himself or another, he directly or indirectly solicits any person or practitioner to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action, against any person, for damages for negligence, or, for pecuniary gain, for himself or another, directly or indirectly solicits other persons to bring causes of action to recover damages for personal injuries or death, or for pecuniary gain, for himself or another, directly or indirectly solicits other persons to make a claim for personal injury protection benefits pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.); provided, however, that this subsection shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.

f. A person who operates a motor vehicle on the public highways of this State, which motor vehicle is insured by a policy issued under the laws of another state, and who maintains a principal residence in this State or who has his motor vehicle principally garaged in this State violates the provisions of P.L.1983, c.320 (C.17:33A-1 et seq.) if he has knowingly prepared or made any written or oral statement, presented to any insurance company or producer licensed to transact the business of insurance under the laws of that other state, and which resulted in obtaining a motor vehicle insurance policy for his motor vehicle in that other state, that the person to be insured:

(1) Maintains a principal residence in the other state when, in fact, that person's principal residence is in this State; or

(2) Has his vehicle principally garaged in the other state, when, in fact, that person has his motor vehicle principally garaged in this State.

This subsection shall not apply to a person who insures a vehicle in another state, as permitted by and in accordance with the laws of that state, based on a second residence, or attendance at an educational institution, in that other state, if in obtaining the policy the person truthfully discloses to the insurance company or producer the state of the person's principal residence and the state where the vehicle is principally garaged.

g. A person, organization, or business violates the provisions of P.L.1983, c.320 (C.17:33A-1 et seq.) if such person, organization, or business purposely or knowingly:

(1) Makes a false or misleading statement, representation, or submission, including failing to properly classify employees in violation of state wage, benefit and tax laws as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11), for the purpose of evading the full payment of insurance benefits or premiums; or

(2) Coerces, solicits, or encourages, or employs, contracts, or otherwise conspires with a person to coerce, solicit, or encourage, any individual to make a false or misleading statement, representation or submission concerning any fact that is material to a claim for insurance benefits, or the payment of insurance benefits or insurance premiums, for the purpose of wrongfully obtaining the benefits or of evading the full payment of the insurance benefits or insurance premiums.

3. Section 5 of P.L.1983, c.320 (C.17:33A-5) is amended to read as follows:

C.17:33A-5 Remedies; penalties; fund established.

5. a. Whenever the commissioner determines that a person has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.), the commissioner may either:

(1) bring a civil action in accordance with subsection b. of this section; or

(2) levy a civil administrative penalty and order restitution in accordance with subsection c. of this section.

In addition to or as an alternative to the remedies provided in this section, the commissioner may request the Attorney General to bring a criminal action under applicable criminal statutes. Additionally, nothing in this section shall be construed to preclude the commissioner from referring the matter to appropriate state licensing authorities, including the insurance producer licensing section in the Department of Banking and Insurance, for consideration of licensing actions, including license suspension or revocation.

b. Any person who violates any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) shall be liable, in a civil action brought by the commissioner in a court of competent jurisdiction, for a penalty of not more than $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation, provided that if the person violates section 4 of P.L.1983, c.320 (C.17:33A-4) the penalty shall be $5,000 for the first violation, $10,000

for the second violation and $15,000 for each subsequent violation. The penalty shall be paid to the commissioner to be used in accordance with subsection e. of this section. The court shall also award court costs and reasonable attorneys' fees to the commissioner.

c. The commissioner is authorized to assess a civil and administrative penalty of not more than $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation of any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) and to order restitution to any insurance company or other person who has suffered a loss as a result of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.), provided that if the provision violated was subsection g. of section 4 of P.L.1983, c.320 (C.17:33A-4), the commissioner shall assess a civil and administrative penalty of $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation and shall order restitution to any insurance company or other person who has suffered a loss as a result of a violation of subsection g. of section 4 of P.L.1983, c.320 (C.17:33A-4). No assessment shall be levied pursuant to this subsection until the violator has been notified by certified mail or personal service. The notice shall contain a concise statement of facts providing the basis for the determination of a violation of P.L.1983, c.320 (C.17:33A-4), the provisions of that act violated, a statement of the amount of civil penalties assessed and a statement of the party's right to a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The noticed party shall have 20 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing containing an answer to the statement of facts contained in the notice. After the hearing and upon a finding that a violation has occurred, the commissioner may issue a final order assessing up to the amount of the penalty in the notice, restitution, and costs of prosecution, including attorneys' fees. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order.

Any penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. The Superior Court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with P.L.1983, c.320 (C.17:33A-1 et seq.). Any penalty collected pursuant to this subsection shall be used in accordance with subsection e. of this section.

d. Nothing in this section shall be construed to prohibit the commissioner and the person or practitioner alleged to be guilty of a violation

of this act from entering into a written agreement in which the person or practitioner does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may contain a provision that it shall not be used in a subsequent civil or criminal proceeding relating to any violation of this act, but notification thereof shall be made to a licensing authority in the same manner as required pursuant to subsection c. of section 10 of P.L.1983, c.320 (C.17:33A-10). The existence of a consent agreement under this subsection shall not preclude any licensing authority from taking appropriate administrative action against a licensee over which it has regulatory authority, nor shall such a consent agreement preclude referral to law enforcement for consideration of criminal prosecution.

e. The New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility Auxiliary Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund into which shall be deposited all revenues from the civil penalties imposed pursuant to this section. Interest received on moneys in the fund shall be credited to the fund. The fund shall be administered by the Commissioner of Banking and Insurance and shall be used to help defray the operating expenses of the New Jersey Automobile Full Insurance Underwriting Association created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.) or shall be used to help defray the operating expenses of the Market Transition Facility created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).

4. Section 9 of P.L.1983, c.320 (C.17:33A-9) is amended to read as follows:

C.17:33A-9 Alleged violations; civil liability; referrals; records.

9. a. (1) Any person who believes that a violation of this act has been or is being made shall notify the bureau and the Office of the Insurance Fraud Prosecutor immediately after discovery of the alleged violation of this act and shall send to the bureau and office, on a form and in a manner jointly prescribed by the commissioner and the Insurance Fraud Prosecutor, the information requested and such additional information relative to the alleged violation as the bureau or office may require. The bureau and the office shall jointly review the reports and select those alleged violations as may require further investigation by the office for possible criminal prosecution, and those that may warrant investigation and possible civil action or enforcement proceeding by the bureau in lieu of or in addition to criminal prosecution. The bureau and office may consult, as necessary, the Department of Labor and Workforce Development to assist with the investigation of the failure to

properly classify employees in violation of any provision of State wage, benefit and tax laws as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11) for the purpose of wrongfully obtaining the benefits or of evading the full payment of the insurance benefits or insurance premiums. The Insurance Fraud Prosecutor and the assistant commissioner shall meet monthly to ensure that reports are handled in an expedited fashion.

(2) Whenever the Bureau of Fraud Deterrence or any employee of the bureau obtains information or evidence of a reasonable possibility of criminal wrongdoing not previously known or disclosed to the Office of the Insurance Fraud Prosecutor, the bureau shall immediately refer that information or evidence to that office. In determining whether a referral to the office is appropriate, the bureau shall utilize appropriate levels of internal review, which shall include but not be limited to approval at the assistant commissioner level. Upon referral, the bureau shall provide the office with all documents related to the referral consistent with section 39 of P.L.1998, c.21 (C.17:33A-23).

b. No person shall be subject to civil liability for libel, violation of privacy or otherwise by virtue of the filing of reports or furnishing of other information, in good faith and without malice, required by this section or required by the bureau or the Office of the Insurance Fraud Prosecutor as a result of the authority conferred upon it by law.

c. The commissioner may, by regulation, require insurance companies licensed to do business in this State to keep such records and other information as he deems necessary for the effective enforcement of this act.

5. R.S.54:50-8 is amended to read as follows:

Confidentiality.

54:50-8. a. The records and files of the director respecting the administration of the State Uniform Tax Procedure Law or of any State tax law shall be considered confidential and privileged and neither the director nor any employee engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom under subsection d., e., f., g., p., q., r., or s. of R.S.54:50-9 or any other provision of State law, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the director nor any employee engaged in such administration or charged

with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the State tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the State under some State tax law, or in any lawful proceeding for the investigation and prosecution of any violation of the criminal provisions of the State Uniform Tax Procedure Law or of any State tax law.

b. The prohibitions of this section, against unauthorized disclosure, use or examination by any present or former officer or employee of this State or any other individual having custody of such information obtained pursuant to the explicit authority of State law, shall specifically include, without limitation, violations involving the divulgence or examination of any information from or any copy of a federal return or federal return information required by New Jersey law to be attached to or included in any New Jersey return. Any person violating this section by divulging, disclosing or using information shall be guilty of a crime of the fourth degree. Any person violating this section by examining records or files for any reason other than a reason necessitated by the performance of official duties shall be guilty of a disorderly persons offense.

c. Whenever records and files are used in connection with the prosecution of any person for violating the provisions of this section by divulging, disclosing or using records or files or examining records and files for any reason other than a reason necessitated by the performance of official duties, the defendant shall be given access to those records and files. The court shall review such records and files in camera, and that portion of the court record containing the records and files shall be sealed by the court.

6. R.S.54:50-9 is amended to read as follows:

Certain officers entitled to examine records.

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of

any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-5.25 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

o. The examination of said records and files by the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

p. The furnishing at the discretion of the director of employer provided wage and tax withholding information contained in tax reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and 54A:7-7, to the designated municipal officer of a municipality authorized to impose an employer payroll tax pursuant to the provisions of Article 5 (Employer Payroll Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax;

q. The furnishing by the director to the Commissioner of Labor and Workforce Development of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of labor market research or assisting in investigations pursuant to any State wage, benefit or tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

r. The furnishing by the director to the New Jersey Economic Development Authority any information contained in tax information statements, reports or returns, or any audit thereof or a report of any investigation made with respect thereto, as may be relevant to assist the authority in the implementation of programs through which grants, loans, tax credits, or other forms of financial assistance are provided. The director shall provide to the New Jersey Economic Development Authority, upon request, such information.

s. The furnishing by the director to the Commissioner of Banking and Insurance of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of assisting in investigations pursuant to any insurance fraud investigation as enumerated in P.L.1983, c.320 (C.17:33A-1 et seq.).

7. This act shall take effect on the first day of the sixth month next following the date of enactment.

Approved July 8, 2021.

CHAPTER 168

AN ACT encouraging development of zero-emission vehicle fueling and charging infrastructure in redevelopment projects and amending various parts of the statutory law.

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

1. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to read as follows:

C.40A:12A-3 Definitions.

3. As used in this act:

"Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by a municipality, county, redevelopment entity, or housing authority pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.).

"Comparable, affordable replacement housing" means newly-constructed or substantially rehabilitated housing to be offered to a household being displaced as a result of a redevelopment project, that is

affordable to that household based on its income under the guidelines established by the Council on Affordable Housing in the Department of Community Affairs for maximum affordable sales prices or maximum fair market rents, and that is comparable to the household's dwelling in the redevelopment area with respect to the size and amenities of the dwelling unit, the quality of the neighborhood, and the level of public services and facilities offered by the municipality in which the redevelopment area is located.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Electric vehicle charging station" means an electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

"Governing body" means the body exercising general legislative powers in a county or municipality according to the terms and procedural requirements set forth in the form of government adopted by the county or municipality.

"Housing authority" means a housing authority created or continued pursuant to this act.

"Housing project" means a project, or distinct portion of a project, which is designed and intended to provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

"Parking authority" means a public corporation created pursuant to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.), and authorized to exercise redevelopment powers within the municipality.

"Persons of low and moderate income" means persons or families who are, in the case of State assisted projects or programs, so defined by the Council on Affordable Housing in the Department of Community Affairs, or in the case of federally assisted projects or programs, defined as of "low and very low income" by the United States Department of Housing and Urban Development.

"Public body" means the State or any county, municipality, school district, authority or other political subdivision of the State.

"Public electric vehicle charging station" means an electric vehicle charging station located at a publicly available parking space.

"Public housing" means any housing for persons of low and moderate income owned by a municipality, county, the State or the federal government, or any agency or instrumentality thereof.

"Public hydrogen fueling station" means publicly available equipment to store and dispense hydrogen fuel to vehicles according to industry codes and standards.

"Publicly assisted housing" means privately owned housing which receives public assistance or subsidy, which may be grants or loans for construction, reconstruction, conservation, or rehabilitation of the housing, or receives operational or maintenance subsidies either directly or through rental subsidies to tenants, from a federal, State or local government agency or instrumentality.

"Publicly available parking space" means a parking space that is available to, and accessible by, the public and may include on-street parking spaces and parking spaces in surface lots or parking garages, but shall not include: a parking space that is part of, or associated with, a private residence; or a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers or vehicles, such as employees, tenants, visitors, residents of a common interest development, or residents of an adjacent building.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by such liens.

"Redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan.

"Redevelopment agency" means a redevelopment agency created pursuant to subsection a. of section 11 of P.L.1992, c.79 (C.40A:12A-11) or established heretofore pursuant to the "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et al.), repealed by this act, which has been permitted in accordance with the provisions of this act to continue to exercise its redevelopment functions and powers.

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

"Redevelopment entity" means a municipality or an entity authorized by the governing body of a municipality pursuant to subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to implement redevelopment plans and carry out redevelopment projects in an area in need of redevelopment, or in an area in need of rehabilitation, or in both.

"Redevelopment plan" means a plan adopted by the governing body of a municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area, or an area in need of rehabilitation, which plan shall be sufficiently complete to indicate its relationship to definite municipal objectives as to appropriate land uses, public transportation and utilities, recreational and municipal facilities, and other public improvements; and to indicate proposed land uses and building requirements in the redevelopment area or area in need of rehabilitation, or both.

"Redevelopment project" means any work or undertaking pursuant to a redevelopment plan; such undertaking may include any buildings, land, including demolition, clearance or removal of buildings from land,

equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational, and welfare facilities, and zero-emission vehicle fueling and charging infrastructure.

"Rehabilitation" means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area.

"Rehabilitation area" or "area in need of rehabilitation" means any area determined to be in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

"Zero-emission vehicle" means a vehicle certified as a zero emission vehicle pursuant to the California Air Resources Board zero emission vehicle standards for the applicable model year, including but not limited to, battery electric-powered vehicles and hydrogen fuel cell vehicles.

"Zero-emission vehicle fueling and charging infrastructure" means infrastructure to charge or fuel zero-emission vehicles, including but not limited to, public electric vehicle charging stations and public hydrogen fueling stations.

2. Section 7 of P.L.1992, c.79 (C.40A:12A-7) is amended to read as follows:

C.40A:12A-7 Adoption of redevelopment plan.

7. a. No redevelopment project shall be undertaken or carried out except in accordance with a redevelopment plan adopted by ordinance of the municipal governing body, upon its finding that the specifically delineated project area is located in an area in need of redevelopment or in an area in need of rehabilitation, or in both, according to criteria set forth in section 5 or section 14 of P.L.1992, c.79 (C.40A:12A-5 or 40A:12A-14), as appropriate.

The redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

(1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.

(2) Proposed land uses and building requirements in the project area.

(3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.

(4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.

(5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities, (b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).

(6) As of the date of the adoption of the resolution finding the area to be in need of redevelopment, an inventory of all housing units affordable to low and moderate income households, as defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), that are to be removed as a result of implementation of the redevelopment plan, whether as a result of subsidies or market conditions, listed by affordability level, number of bedrooms, and tenure.

(7) A plan for the provision, through new construction or substantial rehabilitation of one comparable, affordable replacement housing unit for each affordable housing unit that has been occupied at any time within the last 18 months, that is subject to affordability controls and that is identified as to be removed as a result of implementation of the redevelopment plan. Displaced residents of housing units provided under any State or federal housing subsidy program, or pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), provided they are deemed to be eligible, shall have first priority for those replacement units provided under the plan; provided that any such replacement unit shall not be credited against a prospective municipal obligation under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), if the housing unit which is removed had previously been credited toward satisfying the municipal fair share obligation. To the extent reasonably feasible, replacement housing shall be provided within or in close proximity to the redevelopment area. A municipality shall report annually to the Department of Community Affairs on its progress in implementing the plan for provision of comparable, affordable replacement housing required pursuant to this section.

(8) Proposed locations for zero-emission vehicle fueling and charging infrastructure within the project area in a manner that appropriately connects with an essential public charging network.

b. A redevelopment plan may include the provision of affordable housing in accordance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the housing element of the municipal master plan.

c. The redevelopment plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.). The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to which the redevelopment plan applies. Notwithstanding the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or of other law, no notice beyond that required for adoption of ordinances by the municipality shall be required for the hearing on or adoption of the redevelopment plan or subsequent amendments thereof.

d. All provisions of the redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan.

e. Prior to the adoption of a redevelopment plan, or revision or amendment thereto, the planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan. This report shall include an identification of any provisions in the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a redevelopment plan or revision or amendment thereof, shall review the report of the planning board and may approve or disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following the recommendations. Failure of the planning board to transmit its report within the required 45 days shall relieve the governing body from the requirements of this subsection with regard to the pertinent proposed redevelopment plan or revision or amendment thereof. Nothing in this subsection shall diminish the applicability of the provisions of subsection d. of

this section with respect to any redevelopment plan or revision or amendment thereof.

f. The governing body of a municipality may direct the planning board to prepare a redevelopment plan or an amendment or revision to a redevelopment plan for a designated redevelopment area. After completing the redevelopment plan, the planning board shall transmit the proposed plan to the governing body for its adoption. The governing body, when considering the proposed plan, may amend or revise any portion of the proposed redevelopment plan by an affirmative vote of the majority of its full authorized membership and shall record in its minutes the reasons for each amendment or revision. When a redevelopment plan or amendment to a redevelopment plan is referred to the governing body by the planning board under this subsection, the governing body shall be relieved of the referral requirements of subsection e. of this section.

3. Section 2 of P.L.2001, c.310 (C.40A:12A-65) is amended to read as follows:

C.40A:12A-65 Definitions relative to the "Redevelopment Area Bond Financing Law."

2. As used in sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.):

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), the New Jersey Redevelopment Authority established pursuant to section 4 of P.L.1996, c.62 (C.55:19-23), a county improvement authority established pursuant to P.L.1960, c.183 (C.40:37A-44 et seq.), or other instrumentality created by law of the State with the power to incur debt and issue bonds and other obligations. The issuance of debt in accordance herewith is hereby deemed an essential public, governmental, and corporate purpose of all such authorities.

"Board" means the Local Finance Board established in the Division of Local Government Services in the Department of Community Affairs.

"Bonds" mean bonds, notes, or other obligations issued by the authority, including any State entity, or a municipality to finance or refinance redevelopment projects, and in connection therewith, to finance or refinance any other cost or expense of an authority, a State entity or a municipality pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), the "Local Redevelopment and Housing Law", P.L.1992, c.79 (C.40A:12A-1 et seq.), or other applicable law.

"Electric vehicle charging station" means an electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

"Environmental remediation" means the investigation, analysis, planning, monitoring, acquisition, removal, containment, remediation, construction, or improvement of any real property or facility necessary or desirable for the cleanup of actual, potential, or perceived environmental contamination or pollution, including without limitation, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or other general environmental contamination or pollution which is or may become injurious to the environment or to the public health, safety, or welfare.

"Financial agreement" means an agreement that meets the requirements of a financial agreement under P.L.1991, c.431 (C.40A:20-1 et seq.) or, in the event that real property within a redevelopment area is exempt from taxation or has been or will be abated pursuant to applicable law, an agreement among, as applicable, a State entity or a municipality or both, and a State entity redeveloper providing for payment of payments in lieu of taxes or special assessments by the State entity redeveloper with respect to a redevelopment project, or part thereof, to be carried out pursuant to a State entity redevelopment agreement.

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986, or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Public electric vehicle charging station" means an electric vehicle charging station located at a publicly available parking space.

"Public hydrogen fueling station" means publicly available equipment to store and dispense hydrogen fuel to vehicles according to industry codes and standards.

"Publicly available parking space" means a parking space that is available to, and accessible by, the public and may include on-street parking spaces and parking spaces in surface lots or parking garages, but shall not include: a parking space that is part of, or associated with, a private residence; or a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers or vehicles, such as employees, tenants, visitors, residents of a common interest development, or residents of an adjacent building.

"Redeveloper" means any person, firm, corporation, or public body, including the New Jersey Economic Development Authority or the New Jersey Redevelopment Authority to the extent permitted by law, that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or for any construction or other work forming part of a redevelopment or rehabilitation project.

"Redevelopment" means clearance, replanning, development, and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public, or other structures, the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, environmental remediation, the construction, enhancement, or mitigation of wetlands impacted by a redevelopment project, and any other related costs and expenses including preliminary planning and development costs and any financing costs and expenses in accordance with a redevelopment plan.

"Redevelopment bond financing agreement" means a contract between a municipality and a redeveloper for any work or undertaking for the redevelopment of a redevelopment area, or part thereof, under the provisions of the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), as the case may be.

"Redevelopment area" means an area which has been delineated a "redevelopment area" or "area in need of redevelopment" pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.) or with respect to a State entity, an area in need of, or suitable for, redevelopment delineated by a resolution of a State entity or a State entity redevelopment agreement, in either case, in accordance with the provisions of the enabling statute governing that State entity.

"Redevelopment plan" means a plan for the redevelopment or rehabilitation of all or any part of a redevelopment area as described in the redevelopment plan adopted pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7) or as described in the resolution adopted by a State entity determining the location, type, and character of a redevelopment project.

"Redevelopment project" means any work or undertaking pursuant to a redevelopment plan; such undertaking may include any buildings, land, including demolition, clearance, or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational, and welfare facilities and any other related costs and expenses including preliminary planning and development costs and any financing costs and expenses, and zero-emission vehicle fueling and charging infrastructure.

"Special assessment" means an assessment upon the lands or improvements on such lands, or both, in the redevelopment area benefitted by improvements undertaken pursuant to the "Redevelopment Area Bcnd Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.), or the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and assessed pursuant to chapter 56 of Title 40 of the Revised Statutes, R.S.40:56-1 et seq., except as otherwise provided in subsection c. of section 3 of P.L.2001, c.310 (C.40A:12A-66).

"State entity" means the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) or any other entity created by State law which undertakes a redevelopment project directly or through a State entity redeveloper and which has the power to determine the location, type, and character of projects on land owned or controlled by it.

"State entity redeveloper" means any person, firm, or corporation that shall enter into or propose to enter into a State entity redevelopment agreement with a State entity for the redevelopment or rehabilitation of a redevelopment area under the enabling legislation governing the actions of the State entity or for any construction or other work forming a part of a redevelopment project.

"State entity redevelopment agreement" means an agreement between a State entity and a State entity redeveloper for any work or undertaking in a redevelopment area.

"Zero-emission vehicle" means a vehicle certified as a zero emission vehicle pursuant to the California Air Resources Board zero emission vehicle standards for the applicable model year, including but not limited to, battery electric-powered vehicles and hydrogen fuel cell vehicles.

"Zero-emission vehicle fueling and charging infrastructure" means infrastructure to charge or fuel zero-emission vehicles, including but not limited to, public electric vehicle charging stations and public hydrogen fueling stations.

4. Section 3 of P.L.1991, c.431 (C.40A:20-3) is amended to read as follows:

C.40A:20-3 Definitions.

3. As used in P.L.1991, c.431 (C.40A:20-1 et seq.):

a. "Gross revenue" means annual gross revenue or gross shelter rent or annual gross rents, as appropriate, and other income, for each urban renewal entity designated pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.). The financial agreement shall establish the method of computing gross revenue for the entity, and the method of determining insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, which shall be included in the gross revenue; provided, however, that any federal funds received, whether directly or in the form of rental subsidies paid to tenants, by a nonprofit corporation that is the sponsor of a qualified subsidized housing project, shall not be included in the gross revenue of the project for purposes of computing the annual services charge for municipal services supplied to the project; and provided further that any gain realized by the urban renewal entity on the sale of any unit in fee simple, whether or not taxable under federal or State law, shall not be included in computing gross revenue.

b. "Limited-dividend entity" means an urban renewal entity incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits and the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to each total project unit cost, if the project is undertaken in units, or the total project cost, if the project is not undertaken in units, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the unit or project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12% or the percentage per annum arrived at by adding 1 1/4% to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12% or the percentage per annum arrived at by adding 1 1/4% per annum to the

interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

c. "Net profit" means the gross revenues of the urban renewal entity less all operating and non-operating expenses of the entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all annual service charges paid pursuant to section 12 of P.L.1991, c.431 (C.40A:20-12); (b) all payments to the municipality of excess profits pursuant to section 15 or 16 of P.L.1991, c.431 (C.40A:20-15 or 40A:20-16); (c) an annual amount sufficient to amortize the total project cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, over the term of the abatement as set forth in the financial agreement; (d) all reasonable annual operating expenses of the urban renewal entity and any other entity whose revenue is included in the computation of excess profits, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts; (e) all payments of rent including, but not limited to, ground rent by the urban renewal entity; (f) all debt service;

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of debt service, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding any proprietary ownership interest in the entity.

The urban renewal entity shall provide to the municipality an annual audited statement which clearly identifies the calculation of net profit for the urban renewal entity during the previous year. The annual audited statement shall be prepared by a certified public accountant and shall be submitted to the municipality within 90 days of the close of the fiscal year.

d. "Nonprofit entity" means an urban renewal entity incorporated pursuant to Title 15A of the New Jersey Statutes for which no part of its net profits inures to the benefit of its members.

e. "Project" means any work or undertaking pursuant to a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), which has as its purpose the redevelopment of all or any part of a redevelopment area including any

industrial, commercial, residential or other use, and may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational and welfare facilities, and zero-emission vehicle fueling and charging infrastructure.

f. "Redevelopment area" means an area determined to be in need of redevelopment and for which a redevelopment plan has been adopted by a municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

g. "Urban renewal entity" means a limited-dividend entity, the New Jersey Economic Development Authority or a nonprofit entity which enters into a financial agreement pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) with a municipality to undertake a project pursuant to a redevelopment plan for the redevelopment of all or any part of a redevelopment area, or a project necessary, useful, or convenient for the relocation of residents displaced or to be displaced by the redevelopment of all or any part of one or more redevelopment areas, or a low and moderate income housing project.

h. "Total project unit cost" or "total project cost" means the aggregate of the following items as related to a unit of a project, if the project is undertaken in units, or to the total project, if the project is not undertaken in units, all of which as limited by, and approved as part of the financial agreement: (1) cost of the land and improvements to the entity, whether acquired from a private or a public owner, with cost in the case of leasehold interests to be computed by capitalizing the aggregate rental at a rate provided in the financial agreement; (2) architect, engineer and attorney fees, paid or payable by the entity in connection with the planning, construction and financing of the project; (3) surveying and testing charges in connection therewith; (4) actual construction costs which the entity shall cause to be certified and verified to the municipality and the municipal governing body by an independent and qualified architect, including the cost of any preparation of the site undertaken at the entity's expense; (5) insurance, interest and finance costs during construction; (6) costs of obtaining initial permanent financing; (7) commissions and other expenses paid or payable in connection with initial leasing; (8) real estate taxes and assessments during the construction period; (9) a developer's overhead based on a percentage of actual construction costs, to be computed at not more than the following schedule:

$500,000 or less - 10%
$500,000 through $1,000,000 - $50,000 plus 8% on excess above $500,000
$1,000,001 through $2,000,000 - $90,000 plus 7% on excess above $1,000,000
$2,000,001 through $3,500,000 - $160,000 plus 5.6667% on excess above $2,000,000
$3,500,001 through $5,500,000 - $245,000 plus 4.25% on excess above $3,500,000
$5,500,001 through $10,000,000 - $330,000 plus 3.7778% on excess above $5,500,000
over $10,000,000 - 5%

If the project includes units in fee simple, with respect to those units, "total project cost" shall mean the sales price of the individual housing unit which shall be the most recent true consideration paid for a deed to the unit in fee simple in a bona fide arm's length sales transaction, but not less than the assessed valuation of the unit in fee simple assessed at 100 percent of true value.

If the financial agreement so provides, there shall be excluded from the total project cost: (1) actual costs incurred by the entity and certified to the municipality by an independent and qualified architect or engineer which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or federal law; and (2) any extraordinary costs incurred by the entity and certified to the chief financial officer of the municipality by an independent certified public accountant in order to alleviate blight conditions within the area in need of redevelopment including, but not limited to, the cost of demolishing structures considered by the entity to be an impediment to the proposed redevelopment of the property, costs associated with the relocation or removal of public utility facilities as defined pursuant to section 10 of P.L.1992, c.79 (C.40A:12A-10) considered necessary in order to implement the redevelopment plan, costs associated with the relocation of residents or businesses displaced or to be displaced by the proposed redevelopment, and the clearing of title to properties within the area in need of redevelopment in order to facilitate redevelopment.

i. "Housing project" means any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; the undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable

appurtenances of the undertaking, such as, but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing.

j. "Redevelopment relocation housing project" means a housing project which is necessary, useful or convenient for the relocation of residents displaced by redevelopment of all or any part of one or more redevelopment areas.

k. "Low and moderate income housing project" means a housing project which is occupied, or is to be occupied, exclusively by households whose incomes do not exceed income limitations established pursuant to any State or federal housing program.

l. "Qualified subsidized housing project" means a low and moderate income housing project owned by a nonprofit corporation organized under the provisions of Title 15A of the New Jersey Statutes for the purpose of developing, constructing and operating rental housing for senior citizens under section 202 of Pub.L. 86-372 (12 U.S.C. s.1701q) or rental housing for persons with disabilities under section 811 of Pub.L. 101-625 (42 U.S.C. s.8013), or under any other federal program that the Commissioner of Community Affairs by rule may determine to be of a similar nature and purpose.

m. "Debt service" means the amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt for a project for a period equal to the term of the tax exemption granted by a financial agreement.

n. "Zero-emission vehicle" means a vehicle certified as a zero emission vehicle pursuant to the California Air Resources Board zero emission vehicle standards for the applicable model year, including but not limited to, battery electric-powered vehicles and hydrogen fuel cell vehicles.

o. "Zero-emission vehicle fueling and charging infrastructure" means infrastructure to charge or fuel zero-emission vehicles, including but not limited to, public electric vehicle charging stations and public hydrogen fueling stations.

5. Section 13 of P.L.2001, c.310 (C.52:27D-461) is amended to read as follows:

C.52:27D-461 Definitions relative to the "Revenue Allocation District Financing Act."

13. As used in sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 et seq.):

"Area in need of redevelopment" means a redevelopment area as defined pursuant to section 3 of P.L.1992, c.79 (C.40A:12A-3).

"Board" means the Local Finance Board established in the Division of Local Government Services in the Department of Community Affairs.

"Bonds" means the bonds, notes and bond anticipation notes issued to finance projects pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 et seq.).

"District" means the area or areas within a municipality designated as a revenue allocation district pursuant to the provisions of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 et seq.).

"District agent" means that entity designated by the municipal governing body pursuant to section 14 of P.L.2001, c.310 (C.52:27D-462) to administer a revenue allocation plan on behalf of the municipality.

"Eligible revenue" means the property tax increment and any other incremental revenues set forth in section 21 of P.L.2001, c.310 (C.52:27D-469).

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986 or, if a redevelopment agency or redevelopment entity is established in a municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Permitted investment obligations" means any securities permitted for purchase by local units of government pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1).

"Plan" means the final revenue allocation plan developed by a district agent pursuant to section 22 of P.L.2001, c.310 (C.52:27D-470) and containing, among other elements, the proposed projects, estimated cost of the projects, sources of revenue, and the terms of any obligations, undertakings or commitments to be incurred by the district agent.

"Pledged revenues" means those eligible revenues designated in the plan for payment of project costs.

"Project" means the purchasing, leasing, condemning or otherwise acquiring of land or other property, or an interest therein, in the district or as necessary or convenient for the acquisition of any right-of-way or other easement to or from the revenue allocation district; the moving and relocation of persons or businesses displaced by the acquisition of land or property; the acquisition, construction, reconstruction or rehabilitation of land or property and the improvements thereon, or the financing thereof, including demolition, clearance, removal, relocation, renovation, alteration, construction,

reconstruction, alteration or repair of any land, building, street, highway, alley, utility, mass transit facility, service or other structure, infrastructure or improvement in the district or necessary to effectuate the plan for the district, including infrastructure improvements outside the district, but only those which are integral to the effectuation of the district plan; the acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, and zero-emission vehicle fueling and charging infrastructure, or the financing thereof; acquisition, construction, reconstruction or rehabilitation of residential structures, or the conversion to residential use of structures previously designed or used for other purposes, or the financing thereof, nonprofit corporation or other suitable public or private person, firm, corporation or association, and which, to the extent economically feasible, shall constitute housing affordable to persons and families of low and moderate income pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) or rules and regulations adopted pursuant thereto; and all costs associated with any of the foregoing, including the cost of administrative appraisals, legal, financial, economic and environmental analyses, engineering or cleanup, planning, design, architectural, surveying or other professional and technical services necessary to effectuate the purposes of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 et seq.).

"Project cost" means the cost of the plan or project in all or any part of the district and of all and any property, rights, easements, privileges, agreements and franchises deemed by the district agent to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds; cost of issuance of bonds; engineering and inspection costs; legal expenses; costs of financial and other professional estimates and advice; organization, administrative, operating and other expenses of the district agent prior to and during the planning and implementation of a development, plan or project, including such provision as the district agent may determine for the payment, or security for payment, of principal of or interest on bonds during or after the implementation of any development, plan or project.

"Property tax increment" means the amount obtained by:

(1) multiplying the general tax rate levied each year by the taxable value of all the property assessed within a district in the same year, excluding any special assessments; and

(2) multiplying that product by a fraction having a numerator equal to the taxable value of all the property assessed within the district, minus the property tax increment base, and having a denominator equal to the taxable value of all property assessed within the district.

"Property tax increment base" means the aggregate taxable value of all property assessed which is located within a district as of October 1 of the year preceding the year in which the district is authorized pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 et seq.).

"Redevelopment plan" means a redevelopment plan as the term is defined pursuant to section 3 of P.L.1992, c.79 (C.40A:12A-3).

"Revenue increment base" means the amount of any eligible revenues, other than the property tax increment, collected in the calendar year immediately preceding the adoption of the plan.

"Taxing entity" means the county, the school district or districts, and the municipality authorized to levy a tax on the taxable property within a municipality.

6. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to read as follows:

C.52:27D-489c Definitions relative to economic stimulus.

3. As used in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.):

"Applicant" means a developer proposing to enter into a redevelopment incentive grant agreement.

"Ancillary infrastructure project" means structures or improvements that are located within the incentive area but outside the project area of a redevelopment project, including, but not limited to, docks, bulkheads, parking garages, public electric vehicle charging stations, freight rail spurs, roadway overpasses, and train station platforms, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable or promote the use of public transportation without such improvements, as approved by the State Treasurer.

"Authority" means the New Jersey Economic Development Authority established under section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport" and the Federal Aviation Administration William J. Hughes Technical Center.

"Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and which is located within the incentive area

and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement pursuant to the provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its successors or assignees, including but not limited to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project. A developer also may be a municipal redeveloper as defined herein or Rutgers, the State University of New Jersey.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Disaster recovery project" means a redevelopment project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster, and which is located within the incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Electric vehicle charging station" means an electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

"Eligibility period" means the period of time specified in a redevelopment incentive grant agreement for the payment of reimbursements to a developer, which period shall not exceed 20 years, with the term to be determined solely at the discretion of the applicant.

"Eligible revenue" means the property tax increment and any other incremental revenues set forth in section 11 of P.L.2009, c.90 (C.52:27D-489k), except in the case of a Garden State Growth Zone, in which the property tax increment and any other incremental revenues are calculated as those incremental revenues that would have existed notwithstanding the provisions of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority; or an aviation district.

"Highlands development credit receiving area or redevelopment area" means an area located within an incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

"Incentive grant" means reimbursement of all or a portion of the project financing gap of a redevelopment project through the State or a local Economic Redevelopment and Growth Grant program pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).

"Infrastructure improvements in the public right-of-way" mean public structures or improvements, including public electric vehicle charging stations, located in the public right-of-way that are located within a project area or that constitute an ancillary infrastructure project, either of which are dedicated to or owned by a governmental body or agency upon completion, or any required payment in lieu of the structures, improvements or projects, or any costs of remediation associated with the structures, improvements or projects, and that are determined by the authority, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives.

"Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

"Major rail station" means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mixed use parking project" means a redevelopment project, the parking component of which shall constitute 51 percent or more of any of the following:

a. the total square footage of the entire mixed use parking project;

b. the estimated revenues of the entire mixed use parking project; or

c. the total construction cost of the entire mixed use parking project.

"Moderate-income housing" means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal redeveloper" means an applicant for a redevelopment incentive grant agreement, which applicant is:

a. a municipal government, a municipal parking authority, or a redevelopment agency acting on behalf of a municipal government as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

b. a developer of a mixed use parking project, provided that the parking component of the mixed use parking project is operated and maintained by a municipal parking authority for the term of any financial assistance granted pursuant to P.L.2015, c.69.

"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

"Non-parking component" means that portion of a mixed use parking project not used for parking, together with the portion of the costs of the mixed use parking project, including but not limited to the footings, foundations, site work, infrastructure, and soft costs that are allocable to the non-parking use.

"Parking component" means that portion of a mixed use parking project used for parking, together with the portion of the costs of the mixed use parking project, including but not limited to the footings, foundations, site work, infrastructure, and soft costs that are allocable to the parking use. The parking component, which may include enclosed pedestrian walkways or a skybridge, may be in the same structure as all the non-parking components or may be in a structure with some non-parking components with the remaining non-parking components in an adjacent or nearby structure that is no more than one third of a mile from the parking components.

"Project area" means land or lands located within the incentive area under common ownership or control including through a redevelopment agreement with a municipality, or as otherwise established by a municipality or a redevelopment agreement executed by a State entity to implement a redevelopment project.

"Project cost" means the costs incurred in connection with the redevelopment project by the developer until the issuance of a permanent

certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13), lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects, and, for projects located in a Garden State Growth Zone only, the cost of infrastructure improvements including any ancillary infrastructure project and the amount by which total project cost exceeds the cost of an alternative location for the redevelopment project, but excluding any particular costs for which the project has received federal, State, or local funding.

"Project financing gap" means:

a. the part of the total project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, which shall not be less than 20 percent of the total project cost, which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, subject to review by the State Treasurer, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis; and

b. the amount by which total project cost exceeds the cost of an alternative location for the out-of-State redevelopment project.

"Project revenue" means all rents, fees, sales, and payments generated by a project, less taxes or other government payments.

"Property tax increment" means the amount obtained by:

a. multiplying the general tax rate levied each year by the taxable value of all the property assessed within a project area in the same year, excluding any special assessments; and

b. multiplying that product by a fraction having a numerator equal to the taxable value of all the property assessed within the project area, minus the property tax increment base, and having a denominator equal to the taxable value of all property assessed within the project area.

For the purpose of this definition, "property tax increment base" means the aggregate taxable value of all property assessed which is located within the redevelopment project area as of October 1st of the year preceding the year in which the redevelopment incentive grant agreement is authorized.

"Public electric vehicle charging station" means an electric vehicle charging station located at a publicly available parking space.

"Public hydrogen fueling station" means publicly available equipment to store and dispense hydrogen fuel to vehicles according to industry codes and standards.

"Publicly available parking space" means a parking space that is available to, and accessible by, the public and may include on-street parking spaces and parking spaces in surface lots or parking garages, but shall not include: a parking space that is part of, or associated with, a private residence; or a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers or vehicles, such as employees, tenants, visitors, residents of a common interest development, or residents of an adjacent building.

"Qualified incubator facility" means a commercial building located within an incentive area: which contains 100,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Qualified residential project" means a redevelopment project that is predominantly residential and includes multi-family residential units for purchase or lease, or dormitory units for purchase or lease, having a total project cost of at least $17,500,000, if the project is located in any municipality with a population greater than 200,000 according to the latest federal decennial census, or having a total project cost of at least $10,000,000 if the project is located in any municipality with a population less than 200,000 according to the latest federal decennial census, or is a disaster recovery project, or having a total project cost of $5,000,000 if the project is in a Garden State Growth Zone.

"Qualifying economic redevelopment and growth grant incentive area" or "incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality; or

d. an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

(c) Planning Area 3 (Fringe Planning Area);

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

(5) located within the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a highlands development credit receiving area or redevelopment area;

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal Base Closure and Realignment Commission action; or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in

need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;

(e) the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

(f) any area on which an existing tourism destination project is located.

"Qualifying economic redevelopment and growth grant incentive area" or "incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.).

"Redevelopment incentive grant agreement" means an agreement between:

a. the State and the New Jersey Economic Development Authority and a developer; or

b. a municipality and a developer, or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper, under which, in exchange for the proceeds of an incentive grant, the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, residential, or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area or a transit village.

"Redevelopment project" means a specific construction project or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, owner or tenant, or both, within a project area and any ancillary infrastructure project including infrastructure improvements in the public right-of-way, as set forth in an application to be made to the authority. The use of the term "redevelopment project" in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only redevelopment projects located in areas determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) but shall also include, but not be limited to, any work or undertaking in accordance with the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a

redevelopment plan adopted by a State entity, or as described in the resolution adopted by a public entity created by State law with the power to adopt a redevelopment plan or otherwise determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it or within its jurisdiction, including but not limited to, the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the New Jersey Sports and Exposition Authority established pursuant to P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth Economic Revitalization Authority created pursuant to P.L.2010, c.51 (C.52:27I-18 et seq.). A redevelopment project may include the development of zero-emission vehicle fueling and charging infrastructure.

"Redevelopment utility" means a self-liquidating fund created by a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-489l) to account for revenues collected and incentive grants paid pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other revenues dedicated to a redevelopment project.

"Revenue increment base" means the amounts of all eligible revenues from sources within the redevelopment project area in the calendar year proceeding the year in which the redevelopment incentive grant agreement is executed, as certified by the State Treasurer for State revenues, and the chief financial officer of the municipality for municipal revenues.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

"Technology startup company" means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

"Tourism destination project" means a redevelopment project that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

"Transit project" means a redevelopment project located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

"Transit village" means a community with a bus, train, light rail, or ferry station that has developed a plan to achieve its economic development and revitalization goals and has been designated by the New Jersey Department of Transportation as a transit village.

"University infrastructure" means any of the following located on the campus of Rutgers, the State University of New Jersey:

a. buildings and structures, such as academic buildings, recreation centers, indoor athletic facilities, public works garages, and water and sewer treatment and pumping facilities;

b. open space with improvements, such as athletic fields and other outdoor athletic facilities, planned commons, and parks; and

c. transportation facilities, such as bus shelters and parking facilities.

"Urban transit hub" means an urban transit hub, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), or all light rail stations and property located within a one-mile radius of the mid-point of the platform area of such a rail, bus, or ferry station if the property is in a qualified municipality under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

"Vacant commercial building" means any commercial building or complex of commercial buildings having over 400,000 square feet of office, laboratory, or industrial space that is more than 70 percent unoccupied at the time of application to the authority or is negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208), or any vacant commercial building in a Garden State Growth Zone having over 35,000 square feet of office, laboratory, or industrial space, or over 200,000 square feet of office, laboratory, or industrial space in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties available for occupancy for a period of over one year.

"Vacant health facility project" means a redevelopment project where a health facility, as defined by section 2 of P.L.1971, c.136 (C.26:2H-2), currently exists and is considered vacant. A health facility shall be considered vacant if at least 70 percent of that facility has not been open to the public or utilized to serve any patients at the time of application to the authority.

"Zero-emission vehicle" means a vehicle certified as a zero emission vehicle pursuant to the California Air Resources Board zero emission vehicle standards for the applicable model year, including but not limited to, battery electric-powered vehicles and hydrogen fuel cell vehicles.

"Zero-emission vehicle fueling and charging infrastructure" means infrastructure to charge or fuel zero-emission vehicles, including but not limited to, public electric vehicle charging stations and public hydrogen fueling stations.

7. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to read as follows:

C.52:27D-489d Establishment of local Economic Development and Growth Grant program.

4. a. The governing body of a municipality wherein is located a qualifying economic redevelopment and growth grant incentive area may adopt an ordinance to establish a local Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in that area through the provision of incentive grants to reimburse developers for all or a portion of the project financing gap for such projects. No local Economic Redevelopment and Growth Grant program shall take effect until the Local Finance Board approves the ordinance.

b. A developer shall submit an application for a local incentive grant prior to July 1, 2019. A developer that submits an application for a local incentive grant shall indicate on the application whether it is also applying for a State incentive grant. An application by a developer applying for a local incentive grant only shall not require approval by the authority. A municipal redeveloper may only apply for local incentive grants for the construction of: (1) infrastructure improvements in the public right-of-way, (2) publicly owned facilities, or (3) public electric vehicle charging stations.

c. No local incentive grant shall be finally approved by a municipality until approved by the Local Finance Board. The Local Finance Board shall not approve a local incentive grant unless the application was submitted prior to July 1, 2019.

d. In deciding whether or not to approve a local incentive grant agreement the Local Finance Board shall consider the following factors:

(1) the economic feasibility of the redevelopment project;

(2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;

(3) the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;

(4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;

(5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;

(6) the need for the redevelopment incentive grant agreement to the viability of the redevelopment project;

(7) compliance with the provisions of P.L.2009, c.90 (C.52:27D-489a et al.); and

(8) the degree to which the redevelopment project enhances and promotes job creation and economic development.

e. A developer shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a redevelopment project located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to a developer of a qualified residential project.

8. Section 11 of P.L.2010, c.10 (C.52:27D-489o) is amended to read as follows:

C.52:27D-489o Ordinance for payment to municipal redeveloper for certain projects.

11. a. The governing body of a municipality may, by ordinance, agree that certain eligible revenues in a project area may be paid for a period, not to exceed 20 years, to a municipal redeveloper to undertake and fund up to 100 percent of the construction of infrastructure improvements in a public right-of-way, publicly owned facilities, or public electric vehicle charging stations.

b. An ordinance adopted pursuant to subsection a. of this section shall set forth in detail the proposed construction, the proposed redevelopment project, the estimated project costs, and the projected eligible incremental revenues to be paid. No ordinance shall be finally approved by the municipality unless approved by the Local Finance Board. In deciding whether or not to approve such ordinance, the Local Finance Board shall determine whether the proposed redevelopment project consists of public electric vehicle charging stations, publicly owned facilities, or infrastructure improvements in the public right-of-way. It also shall consider the factors listed at paragraphs (1) through (8) of subsection d. of section 4 of P.L.2009, c.90 (C.52:27D-489d), provided that with respect to infrastructure improvements in the public right-of-way, it shall not consider paragraph (4) of subsection d. of section 4 of P.L.2009, c.90 (C.52:27D-

489d). Such proposed redevelopment project shall conform to the requirements of sections 7, 8, and 11 of P.L.2009, c.90 (C.52:27D-489g, C.52:27D-489h, and C.52:27D-489k), except as set forth therein.

9. This act shall take effect immediately.

Approved July 9, 2021.

CHAPTER 169

AN ACT concerning certain solar energy projects, amending and supplementing P.L.1999, c.23, amending P.L.2016, c.12, and supplementing Title 13 of the Revised Statutes.

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

C.48:3-114 Findings, declarations relative to certain solar energy projects.

1. The Legislature hereby finds and declares that:

a. In order to achieve the State's goal of securing 50 percent of its electricity supply from renewable energy by 2030 with the least cost and the greatest benefit to consumers, it is critical to promote investment in new solar electric power generation facilities, including grid supply solar facilities, community solar facilities, and net metered solar facilities;

b. The New Jersey 2019 Energy Master Plan, prepared pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), found that: (1) the State can achieve its 100 percent clean energy and 80 percent greenhouse gas reduction goals, which will likely lead to net savings when health benefits and climate change mitigation benefits are taken into account, in part by maximizing the development of renewable energy generation, including 17 gigawatts of solar power by 2035 and 32 gigawatts by 2050; and (2) under the least cost path identified by the plan, solar energy could meet 34 percent of the State's clean energy needs by 2050;

c. The development of grid supply solar should be directed toward marginal land and the built environment and away from open space, flood zones, and other areas especially vulnerable to climate change, and a coordinated land use policy for grid supply solar siting is needed to affordably expand New Jersey's commitment to renewable energy while not compromising the State's commitment to preserving and protecting open space and farmland;

d. New Jersey has the market potential to host thousands of megawatts of solar power generation facilities from grid supply, community solar, and net-metered solar installations, which will create solar jobs and improve the environment; and

e. It is therefore in the public interest to develop a new solar program that incentivizes new solar electric power generation facilities, including net metered solar facilities, community solar facilities, and grid supply solar facilities, which are capable of ensuring that clean and reliable solar energy is supplied to New Jersey consumers, and which contribute to meeting the State's energy goals.

C.48:3-115 SREC-II program.

2. a. There is established in the Board of Public Utilities a program to be known as the SREC-II program, which shall serve as the successor program to the SREC program established pursuant to section 38 of P.L.1999, c.23 (C.48:3-87). The goal of the program shall be to provide incentives for the development of at least 3,750 megawatts of new solar power generation by 2026, although this goal may be extended or revised by the board as necessary to conform to the State's solar energy policies.

b. The board shall develop, as part of the SREC-II program, a process for the creation and distribution of renewable energy certificates, to be known as "SREC-IIs," for each megawatt hour of energy produced by a qualifying solar electric power generation facility for a duration established by the board. The board shall also establish a system by which to distribute a renewable energy incentive payment, to be known as the "SREC-II value per megawatt-hour," to the owner of an eligible solar electric power generation facility, which shall be measured in dollars-per-megawatt-hour of solar power generation, and which shall represent the value of the environmental attribute produced by the solar electric power generation facility. SREC-IIs shall be transferable and capable of being used by an electric power supplier or basic generation service provider to satisfy the State's renewable portfolio standards established pursuant to section 38 of P.L.1999, c.23 (C.48:3-87). SREC-IIs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following energy year.

c. No later than one year after the effective date of P.L.2021, c.169 (C.48:3-114 et al.), the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing the SREC-II program in accordance with the provisions of P.L.2021, c.169 (C.48:3-114 et al.).

d. The board is authorized to establish, impose, and collect fees, escrows, and other charges the board deems necessary and proper to implement the provisions of P.L.2021, c.169 (C.48:3-114 et al.).

e. The costs of the SREC-II program shall be apportioned to ratepayers using a methodology approved by the board. Except as provided in subsection h. of section 4 of P.L.2021, c.169 (C.48:3-117), the methodology shall be similar to that by which the board apportions the costs of SRECs and other renewable energy certificates pursuant to section 38 of P.L.1999, c.23 (C.48:3-87) and consistent with the competitive retail market established by the "Energy Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.).

C.48:3-116 Development of small solar facilities incentive program.

3. a. The board shall develop, as part of the SREC-II program, a small solar facilities incentive program to award SREC-IIs to the owners of community solar facilities and net metered solar facilities less than five megawatts in size, as measured in direct current, or another size specified by the board. The small solar facilities incentive program shall aim to provide SREC-IIs for the generation of at least 300 megawatts of net-metered solar facilities per year and 150 megawatts of community solar facilities per year, for each of the five years after the establishment of the SREC-II program.

b. The board shall establish eligibility criteria and an application process by which an owner of a solar electric power generation facility may apply to receive SREC-IIs pursuant to this section, until the program reaches the energy generation target established by subsection a. of this section, as determined by the board. Only solar electric power generation facilities that receive permission to operate from the appropriate regional grid operator after the effective date of P.L.2021, c.169 (C.48:3-114 et al.), shall be eligible to receive SREC-IIs pursuant to this section, unless otherwise specified by the board. A facility shall be eligible to receive SREC-IIs pursuant to this section for a duration established by the board if it is connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit.

c. The small solar facilities incentive program shall include criteria by which to assign an SREC-II value per megawatt-hour to a solar electric power generation facility. The criteria shall be designed by the board to incentivize the development of new solar power projects sufficiently so that the goals for solar power development in the State's Energy Master Plan are met, to further other State goals, and to incentivize projects that are especially in the public interest. The SREC-II value per megawatt-hour may include the value of the environmental and other benefits to the State provided by the

facility, as determined by the board. The criteria may include, but is not limited to, consideration of the following factors:

(1) the size of the facility;

(2) the costs and revenues associated with representative facilities;

(3) for community solar facilities, the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92 (C.13:1D-158);

(4) whether the facility is located on already developed land or the built environment;

(5) the facility's eligibility for net metering pursuant to subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87) or participation in the community solar program established pursuant to subsection f. of section 5 of P.L.2018, c.17 (C.48:3-87.11); and

(6) the rate class of the facility, as determined by the appropriate New Jersey electric public utility or local government unit.

C.48:3-117 Solicitation process for awarding contracts.

4. a. The board shall develop and administer, as part of the SREC-II program, a transparent, fair, and competitive solicitation process for awarding SREC-II contracts to promote the construction of solar electric power generation facilities.

(1) In order to be eligible to participate in the solicitation process, a solar electric power generation facility shall be:

(a) a grid supply solar facility or net metered solar facility greater than five megawatts in size, as measured in direct current, or another size specified by the board;

(b) constructed after the effective date of P.L.2021, c.169 (C.48:3-114 et al.);

(c) interconnected to a distribution or transmission system operated by a New Jersey electric public utility or local government unit; and

(d) sited in conformance with the siting criteria established by the board pursuant to section 6 of P.L.2021, c.169 (C.48:3-119).

(2) The board shall develop additional eligibility criteria and application processes for participation in the solicitation process.

b. The board may establish a system of distinct bidding categories within the competitive solicitation process set forth in this section, such that only bids from the same category compete with one another. The category system may take into account the size of the facility, location of the facility on a contaminated site or landfill, as determined by the board in consultation with the Department of Environmental Protection, or any other feature of a

facility, provided that the category system enhances the continued diversification of the energy resources used to meet consumer demand in this State and results in environmental and public health benefits to New Jersey residents, as determined by the board. The board may revise the category system as it deems appropriate after each solicitation round.

c. Solicitation rounds shall occur at least as frequently as once every 18 months, beginning on the effective date of P.L.2021, c.169 (C.48:3-114 et al.) and ending no earlier than January 1, 2026. The solicitation process shall:

(1) be open on a non-discriminatory basis to any entity seeking to construct a solar electric power generation facility that complies with the provisions of subsection a. of this section;

(2) be carried out in accordance with criteria developed by the board and applied equally to all responses to the solicitation;

(3) award contracts for SREC-IIs to promote the construction of solar electric power generation facilities for no less than an average of 300 megawatts per year, for five years, with the first awards made no later than 18 months after the effective date of P.L.2021, c.169 (C.48:3-114 et al.);

(4) award projects selected as part of the competitive solicitation process the right to receive a renewable energy incentive payment, in the form of an SREC-II value per megawatt-hour established by the board, for the environmental attribute produced by the solar electric power generation facility, for a duration to be established by the board. The SREC-II value per megawatt-hour may include the value of the environmental and other benefits to the State provided by the facility, as determined by the board;

(5) ensure that the length of any award is sufficient to encourage low financing rates, reasonable risks to ratepayers, and to enable the development of affordable renewable energy resources;

(6) mitigate price and delivery risks for consumers;

(7) include requirements designed to ensure successful completion of projects, including, but not limited to, the imposition of appropriate escrow fees, bid maturity requirements, required interconnection milestones, and conditions on when a project must achieve commercial operation; and

(8) ensure that the environmental and public health benefits of solar electric power generation facilities on contaminated sites or landfills are recognized, including accommodating the long development timescale for these projects.

d. The board may establish confidential high and low bid thresholds prior to conducting a competitive solicitation pursuant to this section, provided that the thresholds promote fiscal responsibility for the State and the likelihood of successful bids, as determined by the board. The thresholds may include a cap on the renewable energy incentive payments required

pursuant to paragraph (4) of subsection c. of this section. The board may also procure more than the minimum quantity of solar power required by this section if bids are below the predetermined bid threshold.

e. The board shall determine, in consultation with the Department of Environmental Protection, if a solar electric power generation facility may be sited on a contaminated site or landfill for the purposes of this section. If the board authorizes a facility to be sited on a contaminated site or landfill, the facility shall be afforded the protections provided in paragraph (2) of subsection t. of section 38 of P.L.1999, c.23 (C.48:3-87).

f. At the end of each bidding round, the board shall:

(1) rank all bids received based on the bid price, or, pursuant to subsection b. of this section, based on the bid price within each category;

(2) select bids in ranked order, up to the procurement budget set by the board, or, pursuant to subsection b. of this section, the procurement budget of each category; and

(3) adjust quantities awarded if prices are above or below any confidential pre-determined thresholds established pursuant to subsection d. of this section.

g. Any moneys placed in escrow by an applicant as part of the competitive solicitation process shall be reimbursed to the applicant in full or in part upon meeting the conditions set forth by the board when the board established the escrow requirement, including, but not limited to, selection in the competitive solicitation or commencement of commercial operation of the solar electric power generation facility. The escrow amount shall be forfeited to the General Fund if the facility does not meet the conditions set forth by the board when the board established the escrow requirement, including, but not limited to, commencing commercial operation within the term specified by the board's requirements established pursuant to paragraph (7) of subsection c. of this section, including any extensions as may be granted pursuant to procedures established by the board.

h. The costs of the competitive solicitation process, including the issuance of renewable energy incentive payments pursuant to paragraph (4) of subsection c. of this section, shall not be subject to the Class I renewable energy requirement cost cap established by paragraph (2) of subsection d. of section 38 of P.L.1999, c.23 (C.48:3-87).

C.48:3-118 Requirements for solar electric power generation facilities receiving SREC-II grants.

5. a. No solar electric power generation facility shall simultaneously receive SREC-IIs pursuant to P.L.2021, c.169 (C.48:3-114 et al.) and Class I RECs,

SRECs, or any other comparable certificates, including those issued under a program developed by the board pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

b. A solar electric power generation facility that receives an SREC-II pursuant to P.L.2021, c.169 (C.48:3-114 et al.) for a unit of energy produced shall not otherwise sell, alienate, or dispose of any of the environmental benefits or attributes associated with that energy.

c. A solar electric power generation facility that is selected by the board pursuant to section 4 of P.L.2021, c.169 (C.48:3-117) shall be responsible for the payment of:

(1) an annual remuneration of one percent of the renewable energy incentive payments pursuant to paragraph (4) of subsection c. of section 4 of P.L.2021, c.169 (C.48:3-117), to be submitted to the State Treasurer for deposit into the "Preserve New Jersey Fund Account," established pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46); and

(2) an annual administrative fee, in an amount to be determined by the board in the rules and regulations adopted by the board pursuant to section 2 of P.L.2021, c.169 (C.48:3-115).

d. Each worker employed in the State during the construction of a solar electric power generation facility greater than one megawatt in size, as measured in direct current, that participates in the SREC-II program shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

e. The issuance of SREC-IIs pursuant to P.L.2021, c.169 (C.48:3-114 et al.) shall be deemed "Board of Public Utilities financial assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

f. The owner of a solar electric power generation facility that participates in the SREC-II program shall obtain all necessary permits and other approvals as may be required pursuant to federal, State, or local law, rule, regulation, or ordinance.

g. A solar electric power generation facility that is selected pursuant to section 4 of P.L.2021, c.169 (C.48:3-117) shall comply with the standards concerning vegetation adopted by the Department of Environmental Protection pursuant to section 8 of P.L.2021, c.169 (C.13:1B-15.178).

C.48:3-119 Siting criteria required to commence operation.

6. a. The board shall not authorize a grid supply solar facility or a net metered solar facility greater than five megawatts in size to commence operation, or to interconnect to an electric distribution or transmission system, unless it meets the siting criteria developed pursuant to this section.

b. The board shall develop, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, siting criteria for grid supply solar facilities and net metered solar facilities greater than five megawatts in size. In addition to implementing the provisions of subsections c. through f. of this section, the siting criteria shall:

(1) facilitate the State's commitment to affordable, clean, and renewable energy, and the carbon dioxide emissions reduction goals established by P.L.2007, c.112 (C.26:2C-37 et al.);

(2) minimize, as much as is practicable, potential adverse environmental impacts; and

(3) where appropriate, include consideration of:

(a) existing and prior land uses of the property;

(b) whether the property contains a contaminated site or landfill;

(c) any conservation or agricultural designations associated with the property;

(d) the amount of soil disturbance, impervious surface, and tree cover on the property; and

(e) other site-specific criteria.

c. Unless authorized pursuant to subsection f. of this section, a grid supply solar facility or a net metered solar facility greater than five megawatts in size shall not be sited on:

(1) land preserved under the Green Acres Program;

(2) land located within the preservation area of the pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (C.13:18A-11);

(3) land designated as forest area in the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

(4) land designated as freshwater wetlands as defined pursuant to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands as defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);

(5) lands located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

(6) forested lands, as defined by the board in consultation with the Department of Environmental Protection; or

(7) prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, in excess of the Statewide threshold of 2.5 percent of such soils established by paragraph (1) of subsection d. of this section.

d. (1) A grid supply solar facility or a net metered solar facility greater than five megawatts in size sited on prime agricultural soils or soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, shall not require a waiver pursuant to subsection f. of this section until the board determines, pursuant to paragraph (2) of this subsection, that 2.5 percent of such lands in the State have been approved by the board pursuant to P.L.2021, c.169 (C.48:3-114 et al.) to be utilized by a grid supply solar facility or a net metered solar facility greater than five megawatts in size. After the board makes this determination, a grid supply solar facility or a net metered solar facility greater than five megawatts in size shall not be sited on prime agricultural soils or soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, unless authorized pursuant to subsection f. of this section.

(2) The board, in consultation with the Secretary of Agriculture, shall track and record the Statewide area of prime agricultural soils or soils of Statewide importance, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, and which are utilized for solar energy production by grid supply solar facilities and net metered solar facilities greater than five megawatts in size, in order to implement the provisions of this section.

e. (1) In no case shall a grid supply solar facility be located on preserved farmland.

(2) Nothing in P.L.2021, c.169 (C.48:3-114 et al.) shall be construed to affect the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), including those related to the construction of solar electric power generation facilities on preserved farmland.

f. A developer may petition the board for a waiver to site a solar power electric generation facility in an area proscribed by subsection c. of this section. The petition shall set out the unique factors that make the project consistent with the character of the specific parcel, including whether the property is a contaminated site or landfill, otherwise marginal land, or whether the project utilizes existing development or existing areas of impervious coverage. The board shall, in consultation with the Department of Environmental Protection or Secretary of Agriculture, as appropriate, consider the petition and may grant a waiver to a project deemed to be in the public interest. However, in no case shall the projects approved by the board

pursuant to this section occupy more than five percent of the unpreserved land containing prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, located within any county's designated Agricultural Development Area, as determined by the State Agriculture Development Committee.

g. No later than five years after the adoption of rules and regulations pursuant to section 2 of P.L.2021, c.169 (C.48:3-115), the board, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, shall conduct a review of the rules and regulations to assess program performance, identify problems, and recommend changes to the siting criteria to better effectuate the policy goals set forth in subsection a. of this section. The board shall prepare a report summarizing this review and submit it to the Governor and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

C.48:3-120 Report to Governor, Legislature.

7. The board shall submit a report on the SREC-II program to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature no later than 12 months after the adoption of rules and regulations pursuant to section 2 of P.L.2021, c.169 (C.48:3-115), and annually thereafter. The report shall include, but not be limited to:

a. information about the number and price of SREC-IIs distributed;

b. information about the progress of the program towards meeting its solar energy generation goals, including the individual goals for net-metered solar facilities, community solar facilities, and grid supply solar facilities;

c. an assessment of the competitive solicitation process, including any recommendations to improve the functioning of the program; and

d. a summary of the siting criteria developed pursuant to section 6 of P.L.2021, c.169 (C.48:3-119), including any recommendations to improve the criteria.

C.13:1B-15.178 Standards for use of pollinator-friendly native plant species in grid supply solar facilities.

8. No later than one year after the effective date of P.L.2021, c.169 (C.48:3-114 et al.), the Department of Environmental Protection, in consultation with the board, shall establish standards for the use of pollinator-friendly native plant species and seed mixes in grid supply solar facilities, which are designed to reduce stormwater runoff and erosion, and provide native perennial vegetation and foraging habitat beneficial to gamebirds,

songbirds, and pollinators, and which consider compatibility with the security and reliability of grid supply solar facilities.

9. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read as follows:

C.48:3-51 Definitions relative to competition in certain industries.

3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

"Assignee" means a person to which an electric public utility or another assignee assigns, sells, or transfers, other than as security, all or a portion of its right to or interest in bondable transition property. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto.

"Base load electric power generation facility" means an electric power generation facility intended to be operated at a greater than 50 percent capacity factor including, but not limited to, a combined cycle power facility and a combined heat and power facility.

"Base residual auction" means the auction conducted by PJM, as part of PJM's reliability pricing model, three years prior to the start of the delivery year to secure electrical capacity as necessary to satisfy the capacity requirements for that delivery year.

"Basic gas supply service" means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the board.

"Basic generation service" or "BGS" means electric generation service that is provided, to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers for competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the board.

"Basic generation service provider" or "provider" means a provider of basic generation service.

"Basic generation service transition costs" means the amount by which the payments by an electric public utility for the procurement of power for basic generation service and related ancillary and administrative costs exceeds the net revenues from the basic generation service charge established

by the board pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period, together with interest on the balance at the board-approved rate, that is reflected in a deferred balance account approved by the board in an order addressing the electric public utility's unbundled rates, stranded costs, and restructuring filings pursuant to P.L.1999, c.23 (C.48:3-49 et al.). Basic generation service transition costs shall include, but are not limited to, costs of purchases from the spot market, bilateral contracts, contracts with non-utility generators, parting contracts with the purchaser of the electric public utility's divested generation assets, short-term advance purchases, and financial instruments such as hedging, forward contracts, and options. Basic generation service transition costs shall also include the payments by an electric public utility pursuant to a competitive procurement process for basic generation service supply during the transition period, and costs of any such process used to procure the basic generation service supply.

"Board" means the New Jersey Board of Public Utilities or any successor agency.

"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs, and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if requested by an electric public utility in its application for a bondable stranded costs rate order, federal, State, and local tax liabilities associated with stranded costs recovery, basic generation service transition cost recovery, or the transfer or financing of the property, or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order, or both; and (3) the costs incurred to issue, service, or refinance transition bonds, including interest, acquisition, or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs, and other related fees, costs, and charges, or to assign, sell, or otherwise transfer bondable transition property.

"Bondable stranded costs rate order" means one or more irrevocable written orders issued by the board pursuant to P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of bondable stranded costs and the initial amount of transition bond charges authorized to be imposed to recover the

bondable stranded costs, including the costs to be financed from the proceeds of the transition bonds, as well as on-going costs associated with servicing and credit enhancing the transition bonds, and provides the electric public utility specific authority to issue or cause to be issued, directly or indirectly, transition bonds through a financing entity and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.), which order shall become effective immediately upon the written consent of the related electric public utility to the order as provided in P.L.1999, c.23 (C.48:3-49 et al.).

"Bondable transition property" means the property consisting of the irrevocable right to charge, collect, and receive, and be paid from collections of, transition bond charges in the amount necessary to provide for the full recovery of bondable stranded costs which are determined to be recoverable in a bondable stranded costs rate order, all rights of the related electric public utility under the bondable stranded costs rate order including, without limitation, all rights to obtain periodic adjustments of the related transition bond charges pursuant to subsection b. of section 15 of P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments, money, and proceeds arising under, or with respect to, all of the foregoing.

"British thermal unit" or "Btu" means the amount of heat required to increase the temperature of one pound of water by one degree Fahrenheit.

"Broker" means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation service, transmission, or other services to end-use retail customers, but does not take title to any of the power sold, or a duly licensed gas supplier that assumes the contractual and legal obligation to provide gas supply service to end-use retail customers, but does not take title to the gas.

"Brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.

"Buydown" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a reduction in the pricing, or the restructuring of other terms to reduce the overall cost of the power contract, for the remaining succeeding period of the purchased power arrangement or arrangements.

"Buyout" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a termination of such power purchase contract.

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L.2012, c.24, methane gas from landfills, methane gas from a biomass facility provided that the biomass is cultivated and harvested in a sustainable manner, or methane gas from a composting or anaerobic or aerobic digestion facility that converts food waste or other organic waste to energy.

"Class II renewable energy" means electric energy produced at a hydropower facility with a capacity of greater than three megawatts, but less than 30 megawatts, or a resource recovery facility, provided that the facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that the facility meets the highest environmental standards and minimizes any impacts to the environment and local communities. Class II renewable energy shall not include electric energy produced at a hydropower facility with a capacity of greater than 30 megawatts on or after the effective date of P.L.2015, c.51.

"Co-generation" means the sequential production of electricity and steam or other forms of useful energy used for industrial or commercial heating and cooling purposes.

"Combined cycle power facility" means a generation facility that combines two or more thermodynamic cycles, by producing electric power via the combustion of fuel and then routing the resulting waste heat by-product to a conventional boiler or to a heat recovery steam generator for use by a steam turbine to produce electric power, thereby increasing the overall efficiency of the generating facility.

"Combined heat and power facility" or "co-generation facility" means a generation facility which produces electric energy and steam or other forms of useful energy such as heat, which are used for industrial or commercial heating or cooling purposes. A combined heat and power facility or co-generation facility shall not be considered a public utility.

"Competitive service" means any service offered by an electric public utility or a gas public utility that the board determines to be competitive pursuant to section 8 or section 10 of P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board.

"Commercial and industrial energy pricing class customer" or "CIEP class customer" means that group of non-residential customers with high peak demand, as determined by periodic board order, which either is eligible or which would be eligible, as determined by periodic board order, to receive funds from the Retail Margin Fund established pursuant to section 9 of

P.L.1999, c.23 (C.48:3-57) and for which basic generation service is hourly-priced.

"Comprehensive resource analysis" means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace.

"Community solar facility" means a solar electric power generation facility participating in the Community Solar Energy Pilot Program or the Community Solar Energy Program developed by the board pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11).

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid; (2) an on-site generation facility; (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-87); or (6) is certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill, or on a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system.

"Contaminated site or landfill" means: (1) any currently contaminated portion of a property on which industrial or commercial operations were conducted and a discharge occurred, and its associated disturbed areas, where "discharge" means the same as the term is defined in section 23 of P.L.1993, c.139 (C.58:10B-1); or (2) a properly closed sanitary landfill facility and its associated disturbed areas.

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State.

"Customer account service" means metering, billing, or such other administrative activity associated with maintaining a customer account.

"Delivery year" or "DY" means the 12-month period from June 1st through May 31st, numbered according to the calendar year in which it ends.

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management, and energy efficiency measures on and in the residential, commercial, industrial, institutional, and governmental premises and facilities in this State.

"Electric generation service" means the provision of retail electric energy and capacity which is generated off-site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements related thereto.

"Electric power generator" means an entity that proposes to construct, own, lease, or operate, or currently owns, leases, or operates, an electric power production facility that will sell or does sell at least 90 percent of its output, either directly or through a marketer, to a customer or customers located at sites that are not on or contiguous to the site on which the facility will be located or is located. The designation of an entity as an electric power generator for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in and of itself, affect the entity's status as an exempt wholesale generator under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor act.

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers, and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57).

"Electric public utility" means a public utility, as that term is defined in R.S.48:2-13, that transmits and distributes electricity to end users within this State.

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair, or replacement of appliances, lighting, motors, or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services.

"Electronic signature" means an electronic sound, symbol, or process, attached to, or logically associated with, a contract or other record, and executed or adopted by a person with the intent to sign the record.

"Eligible generator" means a developer of a base load or mid-merit electric power generation facility including, but not limited to, an on-site generation facility that qualifies as a capacity resource under PJM criteria and that commences construction after the effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

"Energy agent" means a person that is duly registered pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the sale of retail electricity or electric related services, or retail gas supply or gas related services, between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold.

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator.

"Energy efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers.

"Energy year" or "EY" means the 12-month period from June 1st through May 31st, numbered according to the calendar year in which it ends.

"Existing business relationship" means a relationship formed by a voluntary two-way communication between an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer and a customer, regardless of an exchange of consideration, on the basis of an inquiry, application, purchase, or transaction initiated by the customer regarding products or services offered by the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer; however, a consumer's use of electric generation service or gas supply service through the consumer's electric public utility or gas public utility shall not constitute or establish an existing business relationship for the purpose of P.L.2013, c.263.

"Farmland" means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

"Federal Energy Regulatory Commission" or "FERC" means the federal agency established pursuant to 42 U.S.C. s.7171 et seq. to regulate the interstate transmission of electricity, natural gas, and oil.

"Final remediation document" shall have the same meaning as provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

"Financing entity" means an electric public utility, a special purpose entity, or any other assignee of bondable transition property, which issues

transition bonds. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity which is not itself an electric public utility shall not be subject to the public utility requirements of Title 48 of the Revised Statutes or any rules or regulations adopted pursuant thereto.

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State.

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services.

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service.

"Government aggregator" means any government entity subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier or a licensed gas supplier for: (1) the provision of electric generation service, electric related service, gas supply service, or gas related service for its own use or the use of other government aggregators; or (2) if a municipal or county government, the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction.

"Government energy aggregation program" means a program and procedure pursuant to which a government aggregator enters into a written contract for the provision of electric generation service or gas supply service

on behalf of business or residential customers within its territorial jurisdiction.

"Governmental entity" means any federal, state, municipal, local, or other governmental department, commission, board, agency, court, authority, or instrumentality having competent jurisdiction.

"Green Acres program" means the program for the acquisition of lands for recreation and conservation purposes pursuant to P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et seq.), P.L.1975, c.155 (C.13:8A-35 et seq.), any Green Acres bond act, P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12 (C.13:8C-43 et seq.).

"Greenhouse gas emissions portfolio standard" means a requirement that addresses or limits the amount of carbon dioxide emissions indirectly resulting from the use of electricity as applied to any electric power suppliers and basic generation service providers of electricity.

"Grid supply solar facility" means a solar electric power generation facility that sells electricity at wholesale and is connected to the State's electric distribution or transmission systems. "Grid supply solar facility" does not include: (1) a net metered solar facility; (2) an on-site generation facility; (3) a facility participating in net metering aggregation pursuant to section 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in remote net metering; or (5) a community solar facility.

"Historic fill" means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. "Historic fill" shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags, or tailings.

"Incremental auction" means an auction conducted by PJM, as part of PJM's reliability pricing model, prior to the start of the delivery year to secure electric capacity as necessary to satisfy the capacity requirements for that delivery year, that is not otherwise provided for in the base residual auction.

"Leakage" means an increase in greenhouse gas emissions related to generation sources located outside of the State that are not subject to a state, interstate, or regional greenhouse gas emissions cap or standard that applies to generation sources located within the State.

"Locational deliverability area" or "LDA" means one or more of the zones within the PJM region which are used to evaluate area transmission

constraints and reliability issues including electric public utility company zones, sub-zones, and combinations of zones.

"Long-term capacity agreement pilot program" or "LCAPP" means a pilot program established by the board that includes participation by eligible generators, to seek offers for financially-settled standard offer capacity agreements with eligible generators pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

"Market transition charge" means a charge imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public utility, at a level determined by the board, on the electric public utility customers for a limited duration transition period to recover stranded costs created as a result of the introduction of electric power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission, and other services from electric power generators and other wholesale suppliers and then assumes the contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers.

"Mid-merit electric power generation facility" means a generation facility that operates at a capacity factor between baseload generation facilities and peaker generation facilities.

"Net metered solar facility" means a solar electric power generation facility participating in the net metering program developed by the board pursuant to subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87) or in a substantially similar program operated by a utility owned or operated by a local government unit.

"Net metering aggregation" means a procedure for calculating the combination of the annual energy usage for all facilities owned by a single customer where such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, and which are served by a solar electric power generating facility as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87).

"Net proceeds" means proceeds less transaction and other related costs as determined by the board.

"Net revenues" means revenues less related expenses, including applicable taxes, as determined by the board.

"Offshore wind energy" means electric energy produced by a qualified offshore wind project.

"Offshore wind renewable energy certificate" or "OREC" means a certificate, issued by the board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project.

"Off-site end use thermal energy services customer" means an end use customer that purchases thermal energy services from an on-site generation facility, combined heat and power facility, or co-generation facility, and that is located on property that is separated from the property on which the on-site generation facility, combined heat and power facility, or co-generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way.

"On-site generation facility" means a generation facility, including, but not limited to, a generation facility that produces Class I or Class II renewable energy, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way, or if the end use customer is purchasing thermal energy services produced by the on-site generation facility, for use for heating or cooling, or both, regardless of whether the customer is located on property that is separated from the property on which the on-site generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way.

"Open access offshore wind transmission facility" means an open access transmission facility, located either in the Atlantic Ocean or offshore, used to facilitate the collection of offshore wind energy or its delivery to the electronic transmission system in this State.

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity, or other legal entity.

"PJM Interconnection, L.L.C." or "PJM" means the privately-held, limited liability corporation that serves as a FERC-approved Regional Transmission Organization, or its successor, that manages the regional, high-voltage electricity grid serving all or parts of 13 states including New Jersey and the District of Columbia, operates the regional competitive wholesale electric market, manages the regional transmission planning process, and

establishes systems and rules to ensure that the regional and in-State energy markets operate fairly and efficiently.

"Preliminary assessment" shall have the same meaning as provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers.

"Properly closed sanitary landfill facility" means a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the Securities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons,

such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor act.

"Qualified offshore wind project" means a wind turbine electricity generation facility in the Atlantic Ocean and connected to the electric transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1).

"Registration program" means an administrative process developed by the board pursuant to subsection u. of section 38 of P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric power generation facilities connected to the distribution system that intend to generate SRECs, to file with the board documents detailing the size, location, interconnection plan, land use, and other project information as required by the board.

"Regulatory asset" means an asset recorded on the books of an electric public utility or gas public utility pursuant to the Statement of Financial Accounting Standards, No. 71, entitled "Accounting for the Effects of Certain Types of Regulation," or any successor standard and as deemed recoverable by the board.

"Related competitive business segment of an electric public utility or gas public utility" means any business venture of an electric public utility or gas public utility including, but not limited to, functionally separate business units, joint ventures, and partnerships, that offers to provide or provides competitive services.

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility.

"Reliability pricing model" or "RPM" means PJM's capacity-market model, and its successors, that secures capacity on behalf of electric load serving entities to satisfy load obligations not satisfied through the output of electric generation facilities owned by those entities, or otherwise secured by those entities through bilateral contracts.

"Renewable energy certificate" or "REC" means a certificate representing the environmental benefits or attributes of one megawatt-hour of generation

from a generating facility that produces Class I or Class II renewable energy, but shall not include a solar renewable energy certificate or an offshore wind renewable energy certificate.

"Resource clearing price" or "RCP" means the clearing price established for the applicable locational deliverability area by the base residual auction or incremental auction, as determined by the optimization algorithm for each auction, conducted by PJM as part of PJM's reliability pricing model.

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse, which the Department of Environmental Protection has determined to be in compliance with current environmental standards, including, but not limited to, all applicable requirements of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation, and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as those costs are determined by the board, and which are not stranded costs as defined in P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information systems, and which shall include expenses related to employees affected by restructuring which result in efficiencies and which result in benefits to ratepayers, such as training or retraining at the level equivalent to one year's training at a vocational or technical school or county community college, the provision of severance pay of two weeks of base pay for each year of full-time employment, and a maximum of 24 months' continued health care coverage. Except as to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs.

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service or basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

"Retail margin" means an amount, reflecting differences in prices that electric power suppliers and electric public utilities may charge in providing electric generation service and basic generation service, respectively, to retail customers, excluding residential customers, which the board may authorize to be charged to categories of basic generation service customers of electric public utilities in this State, other than residential customers, under the

board's continuing regulation of basic generation service pursuant to sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the purpose of promoting a competitive retail market for the supply of electricity.

"Sales representative" means a person employed by, acting on behalf of, or as an independent contractor for, an electric power supplier, gas supplier, broker, energy agent, marketer, or private aggregator who, by any means, solicits a potential residential customer for the provision of electric generation service or gas supply service.

"Sanitary landfill facility" shall have the same meaning as provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

"School district" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.).

"Shopping credit" means an amount deducted from the bill of an electric public utility customer to reflect the fact that the customer has switched to an electric power supplier and no longer takes basic generation service from the electric public utility.

"Site investigation" shall have the same meaning as provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

"Small scale hydropower facility" means a facility located within this State that is connected to the distribution system, and that meets the requirements of, and has been certified by, a nationally recognized low-impact hydropower organization that has established low-impact hydropower certification criteria applicable to: (1) river flows; (2) water quality; (3) fish passage and protection; (4) watershed protection; (5) threatened and endangered species protection; (6) cultural resource protection; (7) recreation; and (8) facilities recommended for removal.

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged customers, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls.

"Societal benefits charge" means a charge imposed by an electric public utility, at a level determined by the board, pursuant to, and in accordance with, section 12 of P.L.1999, c.23 (C.48:3-60).

"Solar alternative compliance payment" or "SACP" means a payment of a certain dollar amount per megawatt hour (MWh) which an electric power supplier or provider may submit to the board in order to comply with the solar electric generation requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

"Solar renewable energy certificate" or "SREC" means a certificate issued by the board or its designee, representing one megawatt hour (MWh) of solar energy that is generated by a facility connected to the distribution system in this State and has value based upon, and driven by, the energy market.

"Solar renewable energy certificate II" or "SREC-II" means a transferable certificate, issued by the board or its designee pursuant to P.L.2021, c.169 (C.48:3-114 et al.), which is capable of counting towards the renewable energy portfolio standards of an electric power supplier or basic generation service provider in the State pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).

"SREC-II program" means the program established pursuant to section 2 of P.L.2021, c.169 (C.48:3-115) to distribute SREC-IIs.

"SREC-II value per megawatt-hour" means the value, in dollars-per-megawatt-hour, assigned by the board to each solar electric power generation facility eligible to receive SREC-IIs, which is paid to the facility and which represents the environmental attributes of the facility.

"Standard offer capacity agreement" or "SOCA" means a financially-settled transaction agreement, approved by board order, that provides for eligible generators to receive payments from the electric public utilities for a defined amount of electric capacity for a term to be determined by the board but not to exceed 15 years, and for such payments to be a fully non-bypassable charge, with such an order, once issued, being irrevocable.

"Standard offer capacity price" or "SOCP" means the capacity price that is fixed for the term of the SOCA and which is the price to be received by eligible generators under a board-approved SOCA.

"State entity" means a department, agency, or office of State government, a State university or college, or an authority created by the State.

"Stranded cost" means the amount by which the net cost of an electric public utility's electric generating assets or electric power purchase commitments, as determined by the board consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the market value of those assets or contractual commitments in a competitive supply marketplace and the costs of buydowns or buyouts of power purchase contracts.

"Stranded costs recovery order" means each order issued by the board in accordance with subsection c. of section 13 of P.L.1999, c.23 (C.48:3-61) which sets forth the amount of stranded costs, if any, the board has determined an electric public utility is eligible to recover and collect in accordance with the standards set forth in section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery mechanisms therefor.

"Telemarketer" shall have the same meaning as set forth in section 2 of P.L.2003, c.76 (C.56:8-120).

"Telemarketing sales call" means a telephone call made by a telemarketer to a potential residential customer as part of a plan, program, or campaign to encourage the customer to change the customer's electric power supplier or gas supplier. A telephone call made to an existing customer of an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, or sales representative, for the sole purpose of collecting on accounts or following up on contractual obligations, shall not be deemed a telemarketing sales call. A telephone call made in response to an express written request of a customer shall not be deemed a telemarketing sales call.

"Thermal efficiency" means the useful electric energy output of a facility, plus the useful thermal energy output of the facility, expressed as a percentage of the total energy input to the facility.

"Transition bond charge" means a charge, expressed as an amount per kilowatt hour, that is authorized by and imposed on electric public utility ratepayers pursuant to a bondable stranded costs rate order, as modified at any time pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

"Transition bonds" means bonds, notes, certificates of participation, beneficial interest, or other evidences of indebtedness or ownership issued pursuant to an indenture, contract, or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which are, directly or indirectly, secured by or payable from bondable transition property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities.

"Transition period" means the period from August 1, 1999 through July 31, 2003.

"Transmission and distribution system" means, with respect to an electric public utility, any facility or equipment that is used for the transmission, distribution, or delivery of electricity to the customers of the

electric public utility including, but not limited to, the land, structures, meters, lines, switches, and all other appurtenances thereof and thereto, owned or controlled by the electric public utility within this State.

"Universal service" means any service approved by the board with the purpose of assisting low-income residential customers in obtaining or retaining electric generation or delivery service.

"Unsolicited advertisement" means any advertising claims of the commercial availability or quality of services provided by an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer which is transmitted to a potential customer without that customer's prior express invitation or permission.

10. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read as follows:

C.48:3-87 Environmental disclosure requirements; standards; rules.

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;

(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and

(3) Any discrete emission reduction retired pursuant to rules and regulations adopted pursuant to P.L.1995, c.188.

b. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

(1) A methodology for disclosure of emissions based on output pounds per megawatt hour;

(2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a

meaningful comparison with a supplier's or basic generation service provider's emission levels; and

(3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

(a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and

(b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) By July 1, 2009, the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a greenhouse gas emissions portfolio standard to mitigate leakage or another regulatory mechanism to mitigate leakage applicable to all electric power suppliers and basic generation service providers that provide electricity to customers within the State. The greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage shall:

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

(b) Exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the regulation.

Unless the Attorney General or the Attorney General's designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally

burden interstate commerce or would be preempted by federal law, the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage.

d. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing, renewable energy portfolio standards that shall require:

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class II renewable energy sources;

(2) beginning on January 1, 2020, that 21 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2025, 35 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources, and by January 1, 2030, 50 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources. Notwithstanding the requirements of this subsection, the board shall ensure that the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection shall not exceed nine percent of the total paid for electricity by all customers in the State for energy year 2019, energy year 2020, and energy year 2021, respectively, and shall not exceed seven percent of the total paid for electricity by all customers in the State in any energy year thereafter; provided that, if in energy years 2019 through 2021 the cost to customers of the Class I renewable energy requirement is less than nine percent of the total paid for electricity by all customers in the State, the board may increase the cost to customers of the Class I renewable energy requirement in energy years 2022 through 2024 to a rate greater than seven percent, as long as the total costs to customers for energy years 2019 through 2024 does not exceed the sum of nine percent of the total paid for electricity by all customers in the State in energy years 2019 through 2021 and seven percent of the total paid for electricity by all customers in the State in energy years 2022 through 2024. In calculating the

cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection, the board shall not include the costs of the offshore wind energy certificate program established pursuant to paragraph (4) of this subsection. In calculating the cost to customers of the Class I renewable energy requirement, the board shall reflect any energy and environmental savings attributable to the Class I program in its calculation, which shall include, but not be limited to, the social cost of carbon dioxide emissions at a value no less than the most recently published three percent discount rate scenario of the United States Government Interagency Working Group on Social Cost of Greenhouse Gases. The board shall take any steps necessary to prevent the exceedance of the cap on the cost to customers including, but not limited to, adjusting the Class I renewable energy requirement.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection;

(3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2033, that requires the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system or transmission system in this State:

EY 2011	306 Gigawatthours (Gwhrs)
EY 2012	442 Gwhrs
EY 2013	596 Gwhrs
EY 2014	2.050%
EY 2015	2.450%
EY 2016	2.750%
EY 2017	3.000%
EY 2018	3.200%
EY 2019	4.300%
EY 2020	4.900%
EY 2021	5.100%
EY 2022	5.100%
EY 2023	5.100%
EY 2024	4.900%

EY 2025	4.800%
EY 2026	4.500%
EY 2027	4.350%
EY 2028	3.740%
EY 2029	3.070%
EY 2030	2.210%
EY 2031	1.580%
EY 2032	1.400%
EY 2033	1.100%

No later than 180 days after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations to close the SREC program to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation provider from solar electric power generators connected to the distribution system. The board shall continue to consider any application filed before the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board shall provide for an orderly and transparent mechanism that will result in the closing of the existing SREC program on a date certain but no later than June 1, 2021.

No later than 24 months after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall complete a study that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State. The board shall submit the written report thereon to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The board shall consult with public utilities, industry experts, regional grid operators, solar power providers and financiers, and other State agencies to determine whether the board can modify the SREC program such that the program will:

- continually reduce, where feasible, the cost of achieving the solar energy goals set forth in this subsection;
- provide an orderly transition from the SREC program to a new or modified program;
- develop megawatt targets for grid connected and distribution systems, including residential and small commercial rooftop systems, community solar systems, and large scale behind the meter systems, as a share of the overall solar energy requirement, which targets the board may modify periodically based on the cost, feasibility, or social impacts of different types of projects;
- establish and update market-based maximum incentive payment caps periodically for each of the above categories of solar electric power generation facilities;

- encourage and facilitate market-based cost recovery through long-term contracts and energy market sales; and

- where cost recovery is needed for any portion of an efficient solar electric power generation facility when costs are not recoverable through wholesale market sales and direct payments from customers, utilize competitive processes such as competitive procurement and long-term contracts where possible to ensure such recovery, without exceeding the maximum incentive payment cap for that category of facility.

The board shall approve, conditionally approve, or disapprove any application for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), no more than 90 days after receipt by the board of a completed application. For any such application for a project greater than 25 kilowatts, the board shall require the applicant to post a notice escrow with the board in an amount of $40 per kilowatt of DC nameplate capacity of the facility, not to exceed $40,000. The notice escrow amount shall be reimbursed to the applicant in full upon either denial of the application by the board or upon commencement of commercial operation of the solar electric power generation facility. The escrow amount shall be forfeited to the State if the facility is designated as connected to the distribution system pursuant to this subsection but does not commence commercial operation within two years following the date of the designation by the board.

For all applications for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

(a) The board shall determine an appropriate period of no less than 120 days following the end of an energy year prior to which a provider or supplier must demonstrate compliance for that energy year with the annual renewable portfolio standard;

(b) No more than 24 months following the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally;

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.) from any increase beyond the

number of SRECs mandated by the solar renewable energy portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all providers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers. Notwithstanding any rule or regulation to the contrary, the board shall recognize these new solar purchase obligations as a change required by operation of law and implement the provisions of this subsection in a manner so as to prevent any subsidies between suppliers and providers and to promote competition in the electricity supply industry.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection, or compliance with the requirements of this subsection may be demonstrated to the board by suppliers or providers through the purchase of SRECs.

The renewable energy portfolio standards adopted by the board pursuant to paragraphs (1) and (2) of this subsection shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

The renewable energy portfolio standards adopted by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 30 months after such filing, and shall, thereafter, be amended, adopted or readopted by the board in accordance with the "Administrative Procedure Act"; and

(4) within 180 days after the date of enactment of P.L.2010, c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind renewable energy certificate program to require that a percentage of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from offshore wind energy in order to support at least 3,500 megawatts of generation from qualified offshore wind projects.

The percentage established by the board pursuant to this paragraph shall serve as an offset to the renewable energy portfolio standard established

pursuant to paragraph (2) of this subsection and shall reduce the corresponding Class I renewable energy requirement.

The percentage established by the board pursuant to this paragraph shall reflect the projected OREC production of each qualified offshore wind project, approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the commercial operation start date of the qualified offshore wind project which production projection and OREC purchase requirement, once approved by the board, shall not be subject to reduction.

An electric power supplier or basic generation service provider shall comply with the OREC program established pursuant to this paragraph through the purchase of offshore wind renewable energy certificates at a price and for the time period required by the board. In the event there are insufficient offshore wind renewable energy certificates available, the electric power supplier or basic generation service provider shall pay an offshore wind alternative compliance payment established by the board. Any offshore wind alternative compliance payments collected shall be refunded directly to the ratepayers by the electric public utilities.

The rules established by the board pursuant to this paragraph shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing:

(1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at non-discriminatory rates to industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as measured in watts, are eligible for net metering. If the amount of electricity generated by the customer-generator, plus any kilowatt hour credits held over from the previous billing periods, exceeds the electricity supplied by the electric

power supplier or basic generation service provider, then the electric power supplier or basic generation service provider, as the case may be, shall credit the customer-generator for the excess kilowatt hours until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits or, if the customer-generator chooses, credit the customer-generator on a real-time basis, at the electric power supplier's or basic generation service provider's avoided cost of wholesale power or the PJM electric power pool's real-time locational marginal pricing rate, adjusted for losses, for the respective zone in the PJM electric power pool. Alternatively, the customer-generator may execute a bilateral agreement with an electric power supplier or basic generation service provider for the sale and purchase of the customer-generator's excess generation. The customer-generator may be credited on a real-time basis, so long as the customer-generator follows applicable rules prescribed by the PJM electric power pool for its capacity requirements for the net amount of electricity supplied by the electric power supplier or basic generation service provider. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering to customers that are not already net metered whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 5.8 percent of the total annual kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider during the prior one-year period;

(2) safety and power quality interconnection standards for Class I renewable energy source systems used by a customer-generator that shall be eligible for net metering.

Such standards or rules shall take into consideration the goals of the New Jersey Energy Master Plan, applicable industry standards, and the standards of other states and the Institute of Electrical and Electronics Engineers. The board shall allow electric public utilities to recover the costs of any new net meters, upgraded net meters, system reinforcements or upgrades, and interconnection costs through either their regulated rates or from the net metering customer-generator;

(3) credit or other incentive rules for generators using Class I renewable energy generation systems that connect to New Jersey's electric public utilities' distribution system but who do not net meter; and

(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any

such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority. The standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system using a net metering billing account, which system is located on property owned by the customer, provided that: (a) the property is not land that has been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, provided, however, that the municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement of this subparagraph (a), (b) the system is not an on-site generation facility, (c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another, and (d) all of those facilities are within the service territory of a single electric public utility and are all served by the same basic generation service provider or by the same electric power supplier. The standards shall provide that, in order to qualify for net metering aggregation, the customer's solar electric power generation system shall be sized so that its annual generation does not exceed the combined metered annual energy usage of the qualified customer facilities, and the qualified customer facilities shall all be in the same customer rate class under the applicable electric public utility tariff. For the customer's facility or property on which the solar electric generation system is installed, the electricity generated from the customer's solar electric generation system shall be accounted for pursuant to the provisions of paragraph (1) of this subsection to provide that the electricity generated in excess of the electricity supplied by the electric power supplier or the basic generation service provider, as the case may be, for the customer's facility on which the solar electric generation system is installed, over the annualized period, is credited at the electric power supplier's or the basic generation service provider's avoided cost of wholesale power or the PJM electric power pool real-time locational marginal pricing rate. All electricity used by the customer's qualified facilities, with the exception of the facility or property on which the solar electric power generation system is installed, shall be billed at the full retail rate pursuant to the electric public utility tariff applicable to the customer class of the customer using the electricity. A customer may contract with a third party to operate a solar electric power

generation system, for the purpose of net metering aggregation. Any contractual relationship entered into for operation of a solar electric power generation system related to net metering aggregation shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements. Any incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board. The board shall adopt net metering aggregation standards within 270 days after the effective date of P.L.2012, c.24.

Such rules shall require the board or its designee to issue a credit or other incentive to those generators that do not use a net meter but otherwise generate electricity derived from a Class I renewable energy source and to issue an enhanced credit or other incentive, including, but not limited to, a solar renewable energy credit, to those generators that generate electricity derived from solar technologies.

Such standards or rules shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market. The board shall not impose a fee for the cost of implementing and overseeing a greenhouse gas emissions portfolio standard adopted pursuant to paragraph (2) of subsection c. of this section.

g. The board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency program in order to ensure investment in cost-effective energy efficiency measures, ensure universal access to energy efficiency measures, and serve the needs of low-income communities that shall require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9). Nothing in this subsection shall be construed to prevent an electric public utility from meeting the requirements of this subsection by contracting with another entity for the performance of the requirements.

h. The board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy efficiency program in order to ensure investment in cost-effective energy efficiency measures, ensure universal access to energy efficiency measures, and serve the needs of low-income communities that shall require each gas public utility to implement energy efficiency measures that reduce natural gas usage in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9). Nothing in this subsection shall be construed to prevent a gas public utility from meeting the requirements of this subsection by contracting with another entity for the performance of the requirements.

i. After the board establishes a schedule of solar kilowatt-hour sale or purchase requirements pursuant to paragraph (3) of subsection d. of this section, the board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, increased minimum solar kilowatt-hour sale or purchase requirements, provided that the board shall not reduce previously established minimum solar kilowatt-hour sale or purchase requirements, or otherwise impose constraints that reduce the requirements by any means.

j. The board shall determine an appropriate level of solar alternative compliance payment, and permit each supplier or provider to submit an SACP to comply with the solar electric generation requirements of paragraph (3) of subsection d. of this section. The value of the SACP for each Energy Year, for Energy Years 2014 through 2033 per megawatt hour from solar electric generation required pursuant to this section, shall be:

EY 2014	$339
EY 2015	$331
EY 2016	$323
EY 2017	$315
EY 2018	$308
EY 2019	$268
EY 2020	$258
EY 2021	$248
EY 2022	$238
EY 2023	$228
EY 2024	$218
EY 2025	$208
EY 2026	$198
EY 2027	$188
EY 2028	$178
EY 2029	$168

EY 2030	$158
EY 2031	$148
EY 2032	$138
EY 2033	$128.

The board may initiate subsequent proceedings and adopt, after appropriate notice and opportunity for public comment and public hearing, an increase in solar alternative compliance payments, provided that the board shall not reduce previously established levels of solar alternative compliance payments, nor shall the board provide relief from the obligation of payment of the SACP by the electric power suppliers or basic generation service providers in any form. Any SACP payments collected shall be refunded directly to the ratepayers by the electric public utilities.

k. The board may allow electric public utilities to offer long-term contracts through a competitive process, direct electric public utility investment and other means of financing, including but not limited to loans, for the purchase of SRECs and the resale of SRECs to suppliers or providers or others, provided that after such contracts have been approved by the board, the board's approvals shall not be modified by subsequent board orders. If the board allows the offering of contracts pursuant to this subsection, the board may establish a process, after hearing, and opportunity for public comment, to provide that a designated segment of the contracts approved pursuant to this subsection shall be contracts involving solar electric power generation facility projects with a capacity of up to 250 kilowatts.

l. The board shall implement its responsibilities under the provisions of this section in such a manner as to:

(1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;

(2) maintain adequate regulatory authority over non-competitive public utility services;

(3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;

(4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;

(5) make energy services more affordable for low and moderate income customers;

(6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;

(7) achieve the goals put forth under the renewable energy portfolio standards;

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

m. The board shall ensure the availability of financial incentives under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and appropriate coverage across all ratepayer segments, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.

n. For projects which are owned, or directly invested in, by a public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), the board shall determine the number of SRECs with which such projects shall be credited; and in determining such number the board shall ensure that the market for SRECs does not detrimentally affect the development of non-utility solar projects and shall consider how its determination may impact the ratepayers.

o. The board, in consultation with the Department of Environmental Protection, electric public utilities, the Division of Rate Counsel in, but not of, the Department of the Treasury, affected members of the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in subsection d. of this section, taking into account the cost impacts and public benefits of such increases including, but not limited to:

(1) reductions in air pollution, water pollution, land disturbance, and greenhouse gas emissions;

(2) reductions in peak demand for electricity and natural gas, and the overall impact on the costs to customers of electricity and natural gas;

(3) increases in renewable energy development, manufacturing, investment, and job creation opportunities in this State; and

(4) reductions in State and national dependence on the use of fossil fuels.

p. Class I RECs and ORECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. SRECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.

q. (1) During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this

section may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of $40,000 per megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed a notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility's filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project approved pursuant to this subsection shall not exceed 10 megawatts. No more than 90 days after its receipt of a completed application for designation pursuant to this subsection, the board shall approve, conditionally approve, or disapprove the application. The notice escrow shall be reimbursed to the facility in full upon either rejection by the board or the facility entering commercial operation, or shall be forfeited to the State if the facility is designated pursuant to this subsection but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, a solar electric power generation facility project that as of May 31, 2017 was designated as "connected to the distribution system," but failed to commence commercial operations as of that date, shall maintain that designation if it commences commercial operations by May 31, 2018.

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, the difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection. A proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered "connected to the distribution system" only upon

designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar electric power generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.

(2) The board shall approve the designation of the proposed solar electric power generation facility as "connected to the distribution system" if the board determines that:

(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;

(b) the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;

(c) the impact of the designation on electric rates and economic development is beneficial; and

(d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.

(3) The board shall act within 90 days of its receipt of a completed application for designation of a solar electric power generation facility as "connected to the distribution system," to either approve, conditionally approve, or disapprove the application. If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility as "connected to the distribution system" shall be deemed to be null and void, and the facility shall thereafter be considered not "connected to the distribution system."

s. In addition to any other requirements of P.L.1999, c.23 or any other law, rule, regulation or order, a solar electric power generation facility that is not net metered or an on-site generation facility and which is located on land that has been actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, shall only be considered "connected to the distribution system" if (1) the board approves the facility's

designation pursuant to subsection q. of this section; or (2) (a) PJM issued a System Impact Study for the facility on or before June 30, 2011, (b) the facility files a notice with the board within 60 days of the effective date of P.L.2012, c.24, indicating its intent to qualify under this subsection, and (c) the facility has been approved as "connected to the distribution system" by the board. Nothing in this subsection shall limit the board's authority concerning the review and oversight of facilities, unless such facilities are exempt from such review as a result of having been approved pursuant to subsection q. of this section.

t. (1) No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, including those owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1). Projects certified under this subsection shall be considered "connected to the distribution system", shall not require such designation by the board, and shall not be subject to board review required pursuant to subsections q. and r. of this section. Notwithstanding the provisions of section 3 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or order to the contrary, for projects certified under this subsection, the board shall establish a financial incentive that is designed to supplement the SRECs generated by the facility in order to cover the additional cost of constructing and operating a solar electric power generation facility on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers. The issuance of SRECs for all solar electric power generation facility projects pursuant to this subsection shall be deemed "Board of Public Utilities financial assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-29.47).

(2) Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any other law, rule, regulation, or order to the contrary, the board, in consultation with the Department of Environmental Protection, may find that a person who

operates a solar electric power generation facility project that has commenced operation on or after the effective date of P.L.2012, c.24, which project is certified by the board, in consultation with the Department of Environmental Protection pursuant to paragraph (1) of this subsection, as being located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility, which projects shall include, but not be limited to projects located on a brownfield for which a final remediation document has been issued, on an area of historic fill or on a properly closed sanitary landfill facility owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), or a person who owns property acquired on or after the effective date of P.L.2012, c.24 on which such a solar electric power generation facility project is constructed and operated, shall not be liable for cleanup and removal costs to the Department of Environmental Protection or to any other person for the discharge of a hazardous substance provided that:

(a) the person acquired or leased the real property after the discharge of that hazardous substance at the real property;

(b) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(c) the person, within 30 days after acquisition of the property, gave notice of the discharge to the Department of Environmental Protection in a manner the Department of Environmental Protection prescribes;

(d) the person does not disrupt or change, without prior written permission from the Department of Environmental Protection, any engineering or institutional control that is part of a remedial action for the contaminated site or any landfill closure or post-closure requirement;

(e) the person does not exacerbate the contamination at the property;

(f) the person does not interfere with any necessary remediation of the property;

(g) the person complies with any regulations and any permit the Department of Environmental Protection issues pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

(h) with respect to an area of historic fill, the person has demonstrated pursuant to a preliminary assessment and site investigation, that hazardous substances have not been discharged; and

(i) with respect to a properly closed sanitary landfill facility, no person who owns or controls the facility receives, has received, or will receive, with respect to such facility, any funds from any post-closure escrow account established pursuant to section 10 of P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of the facility.

Only the person who is liable to clean up and remove the contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g) and who does not have a defense to liability pursuant to subsection d. of that section shall be liable for cleanup and removal costs.

u. No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to establish a registration program. The registration program shall require the owners of solar electric power generation facility projects connected to the distribution system to make periodic milestone filings with the board in a manner and at such times as determined by the board to provide full disclosure and transparency regarding the overall level of development and construction activity of those projects Statewide.

v. The issuance of SRECs for all solar electric power generation facility projects pursuant to this section, for projects connected to the distribution system with a capacity of one megawatt or greater, shall be deemed "Board of Public Utilities financial assistance" as provided pursuant to section 1 of P.L.2009, c.89 (C.48:2-29.47).

w. No more than 270 days after the date of enactment of P.L.2012, c.24, the board shall, after notice and opportunity for public comment and public hearing, complete a proceeding to consider whether to establish a program to provide, to owners of solar electric power generation facility projects certified by the board as being three megawatts or greater in capacity and being net metered, including facilities which are owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is designed to supplement the SRECs generated by the facility to further the goal of improving the economic competitiveness of commercial and industrial customers taking power from such projects. If the board determines to establish such a program pursuant to this subsection, the board may establish a financial incentive to provide that the board shall issue one SREC for no less than every 750 kilowatt-hours of solar energy generated by the certified projects. Any financial benefit realized in relation to a project owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provisions of a

financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers.

x. Solar electric power generation facility projects that are located on an existing or proposed commercial, retail, industrial, municipal, professional, recreational, transit, commuter, entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved, or an impervious surface may be owned or operated by an electric public utility and may be approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

11. Section 4 of P.L.2016, c.12 (C.13:8C-46) is amended to read as follows:

C.13:8C-46 "Preserve New Jersey Fund Account."

4. There is established in the General Fund a special account to be known as the "Preserve New Jersey Fund Account."

a. The State Treasurer shall credit to this account:

(1) (a) (i) For State fiscal year 2016, an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated for recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution, less $19,972,000 already appropriated and expended for parks management in P.L.2015, c.63; and

(ii) in each State fiscal year 2017 through and including State fiscal year 2019 an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(b) (i) in each State fiscal year commencing in State fiscal year 2020 and annually thereafter, an amount equal to 78 percent of the six percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation

purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(ii) any amount received from a solar electric power generation facility pursuant to section 5 of P.L.2021, c.169 (C.48:3-118); and

(2) in each State fiscal year, an amount equal to the amount dedicated pursuant to subparagraph (b) of Article VIII, Section II, paragraph 6 of the State Constitution.

b. In each State fiscal year, the amount credited to the Preserve New Jersey Fund Account shall be appropriated from time to time by the Legislature only for the applicable purposes set forth in Article VIII, Section II, paragraph 6 of the State Constitution and P.L.2016, c.12 (C.13:8C-43 et seq.) for:

(1) providing funding, including loans or grants, for the preservation, including acquisition, development, and stewardship, of lands for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage;

(2) providing funding, including loans or grants, for the preservation and stewardship of land for agricultural or horticultural use and production;

(3) providing funding, including loans or grants, for historic preservation; and

(4) paying administrative costs associated with (1) through (3) of this subsection.

c. Nothing in P.L.2016, c.12 (C.13:8C-43 et seq.) shall authorize any State entity to use constitutionally dedicated CBT moneys for the purpose of making any payments relating to any bonds, notes, or other debt obligations, other than those relating to obligations arising from land purchase agreements made with landowners.

d. In each State fiscal year after the enactment of P.L.2021, c.169 (C.48:3-114 et al.), the State Treasurer shall notify, in writing, the chairperson of the Garden State Preservation Trust of the amount received from a solar electric power generation facility pursuant to section 5 of P.L.2021, c.169 (C.48:3-118) and credited to the Preserve New Jersey Fund Account pursuant to subsubparagraph (ii) of subparagraph (b) of paragraph (1) of subsection a. of this section to be used for the purposes of subsection b. of this section.

12. This act shall take effect immediately.

Approved July 9, 2021.

CHAPTER 170

AN ACT concerning dual-use solar energy projects on unpreserved farmland, supplementing P.L.1999, c.23 (C.48:3-49 et al.) and P.L.1964, c.48 (C.54:4-23.1 et seq.), and amending P.L.2009, c.213.

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

C.48:3-87.13 Rules, regulations for "Dual-Use Solar Energy Pilot Program."

1. a. No later than 180 days after the date of enactment of P.L.2021, c.170 (C.48:3-87.13 et al.), the Board of Public Utilities, in consultation with the Secretary of Agriculture, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing a "Dual-Use Solar Energy Pilot Program" to permit the construction, installation, and operation of dual-use solar energy projects that are connected to the distribution or transmission system owned or operated by a New Jersey public utility or local government unit and located on unpreserved farmland, while maintaining the affected land in active agricultural or horticultural use.

b. The rules and regulations developed by the board, in consultation with the Secretary of Agriculture, for the Dual-Use Solar Energy Pilot Program shall establish:

(1) a 10 megawatt, as measured in direct current, capacity limit for each individual dual-use solar energy project;

(2) annual capacity targets, such that the total capacity of all dual-use solar energy projects approved under the pilot program shall not exceed 200 megawatts, as measured in direct current, for all dual-use solar energy projects approved under the pilot program, except as otherwise provided pursuant to subsection e. of this section;

(3) financial incentives available to dual-use solar energy projects approved pursuant to the pilot program;

(4) a prohibition on siting a dual-use solar energy project on prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, unless the project is in association with a research study undertaken in coordination with a New Jersey public research institution of higher education, as approved by the board in consultation with the Secretary of Agriculture;

(5) a prohibition on siting a dual-use solar energy project on any of the following unless the board, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, grants a waiver based on unique factors that make the project consistent with the character of the specific parcel:

(a) land located within the preservation area of the pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (C.13:18A-11);

(b) land designated as forest area in the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

(c) land designated as freshwater wetlands, as defined pursuant to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands, as defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.); or

(d) land located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

(6) the requirement that the land on which the dual-use solar energy project is installed continues to be actively devoted to agricultural or horticultural use;

(7) the requirement that the project comply with all applicable federal, State, or local laws, rules, regulations, or ordinances;

(8) an application process for owners who wish to develop a dual-use solar energy project as part of the pilot program, including such fees or deposits as shall be determined by the board; and

(9) criteria, consistent with the provisions of paragraph (1) of subsection c. of this section, for evaluating and scoring proposed projects to determine which projects should be allowed to participate in the pilot program and be awarded incentives pursuant to paragraph (3) of this subsection.

c. (1) An owner proposing a dual-use solar energy project shall submit an application to the board before constructing, installing, or operating the project. The board shall consult with the Secretary of Agriculture in the review and approval of all dual-use solar energy projects under the Dual-Use Solar Energy Pilot Program. In reviewing and making decisions on dual-use solar energy projects, the board and secretary shall give consideration to criteria including, but not limited to:

(a) proposals for monitoring the quality of agricultural or horticultural use of the land;

(b) the incentive level sought by the applicant;

(c) geographic location;

(d) interconnection planning;

(e) proposals for minimizing negative impacts to farmland;

(f) proposals to address decommissioning;

(g) proposals for addressing stormwater runoff and other environmental issues;

(h) technical feasibility;

(i) technical innovation;

(j) the quality of any research committed to during the evaluation period; and

(k) any other criteria as may be deemed advisable by the board.

The review shall also consider whether the selected projects are of varying sizes, and, collectively, involve diverse types of agricultural and horticultural production. The board, in consultation with the Secretary of Agriculture, shall, within 180 days after receipt, approve, disapprove, or approve with conditions an application submitted pursuant to this section.

(2) An owner who receives approval from the board pursuant to this section shall obtain all necessary permits and other approvals as may be required pursuant to federal, State, or local law, rule, regulation, or ordinance, prior to the construction of the dual-use solar energy project.

d. The Secretary of Agriculture may request that the board suspend or revoke an approval issued pursuant to this section for a violation of any term or condition of the approval or any provision of this section.

e. The Dual-Use Solar Energy Pilot Program shall continue for 36 months after the adoption of the rules and regulations required pursuant to subsection a. of this section, except that the board may extend the pilot program by no more than two additional 12-month periods if the board, in consultation with the Secretary of Agriculture, determines that such extensions are necessary to adequately evaluate the performance of the projects selected for construction as part of the Dual-Use Solar Energy Pilot Program. If the board extends the Dual-Use Solar Energy Pilot Program, it may increase the total capacity limit of all projects under the program by no more than 50 megawatts, as measured in direct current, per additional 12-month period.

f. Notwithstanding any law, ordinance, rule, or regulation to the contrary, a dual-use solar energy project approved pursuant to this section shall be a permitted use within every municipality.

g. No later than 36 months, or no later than 48 or 60 months if applicable due to extensions of the Dual-Use Solar Energy Pilot Program pursuant to subsection e. of this section, after adoption of the rules and regulations required pursuant to subsection a. of this section, the board, in consultation with the Secretary of Agriculture, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to convert the Dual-Use Solar Energy Pilot Program to

a permanent program as part of the permanent successor to the solar incentive program established pursuant to P.L.2021, c.169 (C.48:3-114 et al.). The rules and regulations for the permanent program shall set forth standards for dual-use solar energy projects that take into account the results of the pilot program and any research studies on the efficacy of dual-use solar energy in New Jersey, and shall include, but not be limited to:

(1) a capacity limit for individual dual-use solar energy projects;

(2) a total annual capacity limit;

(3) provisions to protect New Jersey's prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, and provisions to protect the State's agricultural and horticultural diversity;

(4) standards for: installation and decommissioning techniques that minimize negative impacts to farmland, which may include the posting of a performance bond for decommissioning; impervious coverage; and water management, including, but not limited to, water recapture and filtration;

(5) provisions to ensure the continued active agricultural or horticultural use of land on which dual-use solar energy projects are installed;

(6) siting criteria and restrictions, which may differ from those established pursuant to section 6 of P.L.2021, c.169 (C.48:3-119) to the extent necessary to accomplish the purposes of the dual-use solar energy program; and

(7) an application process, including such fees, escrows, or deposits as shall be determined by the board.

h. As used in this section:

"Dual-use solar energy project" means the energy generation facilities, structures, and equipment for the production of electric power from solar photovoltaic panels located on unpreserved farmland in agricultural or horticultural production that ensures the continued simultaneous use of the land below and adjacent to the panels for agricultural or horticultural production.

"Owner" means the owner of the unpreserved farmland, the owner of the dual-use solar energy project, or a representative duly authorized to act on the owner's behalf.

"Preserved farmland" means the same as the term is defined in section 4 of P.L.2009, c.213 (C.54:4-23.3c).

"Unpreserved farmland" means any land that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and is not preserved farmland.

C.54:4-23.3e Land used not considered in agricultural, horticultural use.

2. a. No land used for a dual-use solar energy project constructed, installed, and operated pursuant to the Dual-Use Solar Energy Pilot Program established pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), except as provided in this section.

b. Land used for a dual-use solar energy project constructed, installed, and operated pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) may be eligible for valuation, assessment, and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

(1) the dual-use solar energy project is located on unpreserved farmland that is continuing to be in operation as a farm in the tax year for which the valuation, assessment, and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

(2) in the tax year preceding the construction, installation, and operation of the dual-use solar energy project, the acreage used for the dual-use solar energy project was valued, assessed, and taxed as land in agricultural or horticultural use;

(3) the land on which the dual-use solar energy project is located continues to be actively devoted to agricultural and horticultural use, and meets the income requirements set forth in section 5 of P.L.1964, c.48 (C.54:4-23.5);

(4) the approval issued for the dual-use solar energy project by the Board of Public Utilities pursuant to section 1 of P.L.2021, c.170 (C.48:3-87.13) has not been suspended or revoked; and

(5) all other requirements of P.L.1964, c.48 (C.54:4-23.1 et seq.) are met.

c. No generated energy from a dual-use solar energy project shall be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project may be considered income for eligibility for valuation, assessment, and taxation of land pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.).

d. Within one year after the date of enactment of P.L.2021, c.170 (C.48:3-87.13 et al.), the Division of Taxation, in consultation with the Secretary of Agriculture and the Board of Public Utilities, shall:

(1) adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation and administration of this section; and

(2) incorporate information concerning dual-use solar energy projects into the guidelines provided, and the continuing education course offered, to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials pursuant to section 1 of P.L.2013, c.43 (C.54:4-23.3d).

e. As used in this section:

"Dual-use solar energy project" means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

"Preserved farmland" means the same as the term is defined in section 4 of P.L.2009, c.213 (C.54:4-23.3c).

"Unpreserved farmland" means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

3. Section 4 of P.L.2009, c.213 (C.54:4-23.3c) is amended to read as follows:

C.54:4-23.3c Land use for taxation purposes.

4. a. (1) No land used for biomass, solar, or wind energy generation shall be considered land in agricultural or horticultural use or actively devoted to agricultural or horticultural use for the purposes of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), except as provided in this section or, in the case of unpreserved farmland used for a dual-use solar energy project, as provided in section 1 of P.L.2021, c.170 (C.48:3-87.13).

(2) No generated energy from any source shall be considered an agricultural or horticultural product.

b. Land used for biomass, solar, or wind energy generation may be eligible for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), provided that:

(1) the biomass, solar, or wind energy generation facilities, structures, and equipment were constructed, installed, and operated on property that is part of an operating farm continuing to be in operation as a farm in the tax year for which the valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) is applied for;

(2) in the tax year preceding the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment on an operating farm, the acreage used for the biomass, solar, or wind energy generation facilities, structures, and equipment was valued, assessed and taxed as land in agricultural or horticultural use;

(3) the power or heat generated by the biomass, solar, or wind energy generation facilities, structures, and equipment is used to provide, either

directly or indirectly but not necessarily exclusively, power or heat to the farm or agricultural or horticultural operations supporting the viability of the farm;

(4) the owner of the property has filed a conservation plan with the soil conservation district, with provisions for compliance with paragraph (5) of this subsection where applicable, to account for the aesthetic, impervious coverage, and environmental impacts of the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment, including, but not necessarily limited to, water recapture and filtration, and the conservation plan has been approved by the district;

(5) where solar energy generation facilities, structures, and equipment are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or other plants capable of being grown under such conditions, or for pasture for grazing;

(6) the amount of acreage devoted to the biomass, solar, or wind energy generation facilities, structures, and equipment does not exceed a ratio of one to five acres, or portion thereof, of land devoted to energy generation facilities, structures, and equipment and land devoted to agricultural or horticultural operations;

(7) biomass, solar, or wind energy generation facilities, structures, and equipment are constructed or installed on no more than 10 acres of the farmland for which the owner of the property is applying for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), and if power is being generated, no more than two megawatts of power are generated on the 10 acres or less; and

(8) for biomass energy generation, the owner of the property has obtained the approval of the Department of Agriculture pursuant to section 5 of P.L.2009, c.213 (C.4:1C-32.5).

c. No income from any power or heat sold from the biomass, solar, or wind energy generation may be considered income for eligibility for valuation, assessment and taxation of land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and, notwithstanding the provisions of that act, or any rule or regulation adopted pursuant thereto, to the contrary, there shall be no income requirement for property valued, assessed and taxed pursuant to subsection b. of this section.

d. Notwithstanding any provision of this section, section 3 of P.L.1964, c.48 (C.54:4-23.3), or section 4 of P.L.1964, c.48 (C.54:4-23.4) to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c.111

(C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

e. The Division of Taxation, in consultation with the Department of Agriculture, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation and administration of this section.

f. For the purposes of this section:

"Biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

"Dual-use solar energy project" means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

"Land used for biomass, solar, or wind energy generation" means the land upon which the biomass, solar, or wind energy generation facilities, structures, and equipment are constructed, installed, and operated. In the case of biomass energy generation, "land used for biomass, solar, or wind energy generation" shall not mean the land upon which agricultural or horticultural products used as fuel in the biomass energy generation facility, structure, or equipment are grown. "Land used for biomass, solar, or wind energy generation" shall not include land used for a dual-use solar energy project.

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

"Unpreserved farmland" means the same as the term is defined in section 1 of P.L.2021, c.170 (C.48:3-87.13).

4. This act shall take effect immediately.

Approved July 9, 2021.

CHAPTER 171

AN ACT concerning electric vehicle supply equipment and Make-Ready parking spaces and amending and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).

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

C.40:55D-66.18 Variance not required for application.

1. An application for development submitted solely for the installation of electric vehicle supply equipment or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts of a municipality and shall not require a variance pursuant to subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70).

C.40:55D-66.19 Applications at gasoline station, retail establishment.

2. a. An application for development for the installation of electric vehicle supply equipment or Make-Ready parking spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.) or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:

(1) the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;

(2) all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and

(3) the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.

b. An application shall be deemed complete if:

(1) the application, including the permit fee and all necessary documentation, is determined to be complete;

(2) a notice of incompleteness is not provided within 20 days after the filing of the application; or

(3) a one-time written correction notice is not issued by the jurisdiction within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.

c. Electric vehicle supply equipment and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and Department of Community Affairs inspection requirements.

C.40:55D-66.20 Certain multiple dwellings, preliminary site plan approval.

3. a. (1) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is a building held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed use development, the developer or owner, as applicable, shall:

(a) prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install electric vehicle supply equipment in at least one-third of the 15 percent of Make-Ready parking spaces;

(b) within three years following the date of the issuance of the certificate of occupancy, install electric vehicle supply equipment in an additional one-third of the original 15 percent of Make-Ready parking spaces; and

(c) within six years following the date of the issuance of the certificate of occupancy, install electric vehicle supply equipment in the final one-third of the original 15 percent of Make-Ready parking spaces.

(2) Throughout the installation of electric vehicle supply equipment in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.

(3) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required by this subsection.

b. (1) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in subsection a. of this section shall:

(a) install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.

(b) install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.

(c) install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.

(d) install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.

(e) install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.

(2) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install electric vehicle supply equipment to satisfy the requirements of this subsection.

(3) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required by this subsection.

(4) With respect to parking spaces for people with disabilities, the model land use ordinance published pursuant to section 4 of P.L.2021, c.171 (C.40:55D-66.21) shall include standards that provide for the progression of accessible Make-Ready parking spaces to accessible electric vehicle supply equipment parking spaces, and shall conform to the requirements of the most recent "International Building Code" and "International Residential Code" published by the International Code Council except as the Commissioner of Community Affairs deems appropriate to deviate from those codes.

c. Notwithstanding the provisions of subsections a. and b. of this section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

d. (1) The Site Improvement Advisory Board, established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3), shall, no later than 90 days following enactment of P.L.2021, c.171 (C.40:55D-66.18 et al.), submit a recommendation to the Commissioner of Community Affairs to amend the Statewide site improvement standards for multifamily residential development to include the requirements set forth in sections 1 through 3 of P.L.2021, c.171 (C.40:55D-66.18 through C.40:55D-66.20) and to include parking spaces with electric vehicle supply equipment in the calculation of minimum required parking spaces. The Commissioner of Community Affairs may review and promulgate the recommendation in accordance with the procedure set forth in subsection b. of section 4 of P.L.1993, c.32 (C.40:55D-40.4). The adopted criteria shall be consistent with the model

land use ordinance published by the Commissioner of Community Affairs pursuant to section 4 of P.L.2021, c.171 (C.40:55D-66.21).

(2) The "State Uniform Construction Code Act," P.L.1975, c. 217 (C. 52:27D-119 et seq.), shall incorporate the requirements set forth in sections 1 through 3 of P.L.2021, c.171 (C.40:55D-66.18 through C.40:55D-66.20) no later than 90 days following enactment of P.L.2021, c.171 (C.40:55D-66.18 et al.). The adopted criteria shall be consistent with the model land use ordinance published by the Commissioner of Community Affairs pursuant to section 4 of P.L.2021, c.171 (C.40:55D-66.21).

e. A parking space prepared with electric vehicle supply equipment or Make-Ready equipment pursuant to this section shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This subsection shall result in a reduction of no more than 10 percent of the total required parking.

f. All parking space calculations for electric vehicle supply equipment and Make-Ready equipment pursuant to this section shall be rounded up to the next full parking space.

g. A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

h. A power company funding the installation of electric vehicle supply equipment or Make-Ready parking spaces shall collaborate with developers and owners, with consultation from the Board of Public Utilities, in implementing the provisions of P.L.2021, c.171 (C.40:55D-66.18 et al.).

C.40:55D-66.21 Model land use ordinance.

4. a. (1) Within 30 days of enactment of P.L.2021, c.171 (C.40:55D-66.18 et al.), the Commissioner of Community Affairs shall publish a model land use ordinance to address installation, sightline, and setback requirements and other health- and safety-related specifications for electric vehicle supply equipment and Make-Ready parking spaces and shall post the model land use ordinance on the department's Internet website. The model land use ordinance published by the commissioner shall not require the rulemaking process pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(2) The model land use ordinance shall include the requirements pursuant to sections 1 through 3 of P.L.2021, c.171 (C.40:55D-66.18 through C.40:55D-66.20).

(3) The Commissioner of Community Affairs may periodically update the electric vehicle supply equipment and Make-Ready parking space

requirements established pursuant to subsections a. and b. of section 3 of P.L.2021, c.171 (C.40:55D-66.20) to reflect increased electric vehicle adoption levels and technological advances in the State. Any update to such parking requirements shall be adopted by the commissioner pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and promulgated as amendments to the model land use ordinance published pursuant to this subsection. Amendments to the model ordinance to address installation, sightline, or setback requirements or other health- and safety-related specifications shall not require the rulemaking process pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. (1) The model land use ordinance published by the Commissioner of Community Affairs pursuant to this section shall be effective in each municipality, except that a municipality may deviate from the reasonable standards set forth in the model land use ordinance by adoption of an ordinance pursuant to paragraph (2) of this subsection.

(2) A municipality may, by ordinance, adopt reasonable standards to address installation, sightline, and setback requirements or other health- and safety-related specifications for electric vehicle supply equipment and Make-Ready parking spaces. Nothing in this subsection shall be deemed to authorize a municipality to require site plan review by a municipal agency solely for the installation of electric vehicle supply equipment or Make-Ready parking spaces.

(3) A municipality may encourage additional installation of electric vehicle supply equipment and Make-Ready parking spaces in development projects, but shall not require more than the requirements in the model land use ordinance published by the Commissioner of Community Affairs. The requirements adopted by the Site Improvement Advisory Board established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3) and the requirements adopted through the "State Uniform Construction Code Act," P.L.1975, c. 217 (C. 52:27D-119 et seq.) shall be consistent with the requirements set forth in the model ordinance and shall be updated if the model ordinance is updated pursuant to paragraph (3) of subsection a. of this section.

5. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read as follows:

C.40:55D-4 Definitions; D to L.

3.1. "Days" means calendar days.

"Density" means the permitted number of dwelling units per gross area of land that is the subject of an application for development, including

noncontiguous land, if authorized by municipal ordinance or by a planned development.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance or on the date of the adoption of the ordinance authorizing noncontiguous cluster, and in accordance with recognized environmental constraints.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

"Development restriction" means an agricultural restriction, a conservation restriction, or a historic preservation restriction.

"Development transfer" or "development potential transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance.

"Development transfer bank" means a development transfer bank established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the State TDR Bank.

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

"Electric vehicle supply equipment" or "electric vehicle service equipment" or "EVSE" means the equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, and point of sale equipment and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

"Environmental commission" means a municipal advisory body created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of land that is the subject of an application for development, including noncontiguous land, if authorized by municipal ordinance or by a planned development.

"General development plan" means a comprehensive plan for the development of a planned development, as provided in section 4 of P.L.1987, c.129 (C.40:55D-45.2).

"Governing body" means the chief legislative body of the municipality. In municipalities having a board of public works, "governing body" means such board.

"Historic district" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic preservation restriction" means a "historic preservation restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

"Historic site" means any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

"Inherently beneficial use" means a use which is universally considered of value to the community because it fundamentally serves the public good

and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under P.L.1975, c.291 (C.40:55D-1 et seq.), or whose rights to use, acquire, or enjoy property under P.L.1975, c.291 (C.40:55D-1 et seq.), or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under P.L.1975, c.291 (C.40:55D-1 et seq.).

"Land" includes improvements and fixtures on, above or below the surface.

"Local utility" means any sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

"Lot" means a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

6. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read as follows:

C.40:55D-5 Definitions; M to O.

3.2. "Maintenance guarantee" means any security which may be accepted by a municipality for the maintenance of any improvements required by this act, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

"Major subdivision" means any subdivision not classified as a minor subdivision.

"Make-Ready" means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient

future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).

"Master plan" means a composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

"Mayor" means the chief executive of the municipality, whatever his official designation may be, except that in the case of municipalities governed by municipal council and municipal manager the term "mayor" shall not mean the "municipal manager" but shall mean the mayor of such municipality.

"Military facility" means any facility located within the State which is owned or operated by the federal government, and which is used for the purposes of providing logistical, technical, material, training, and any other support to any branch of the United States military.

"Military facility commander" means the chief official, base commander or person in charge at a military facility.

"Minor site plan" means a development plan of one or more lots which (1) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

"Minor subdivision" means a subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision; provided that such subdivision does not involve (1) a planned development, (2) any new street or (3) the extension of any off-tract improvement, the cost of which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42).

"Municipality" means any city, borough, town, township or village.

"Municipal agency" means a municipal planning board or board of adjustment, or a governing body of a municipality when acting pursuant to this act and any agency which is created by or responsible to one or more municipalities when such agency is acting pursuant to this act.

"Municipal resident" means a person who is domiciled in the municipality.

"Nonconforming lot" means a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Noncontiguous cluster" means noncontiguous areas to be developed as a single entity according to a plan containing an area, or a section or sections thereof, to be developed for residential purposes, nonresidential purposes, or a combination thereof, at a greater concentration of density or intensity of land use than authorized within the area, section, or sections, under conventional development, in exchange for the permanent preservation of another area, or a section or sections thereof, as common or public open space, or for historic or agricultural purposes, or a combination thereof.

"Office of Planning Advocacy" or "Office of Smart Growth" means the Office of State Planning established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201) and transferred to the Department of State pursuant to Governor Christie's Reorganization Plan No. 002-2011, effective August 28, 2011.

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R.S.40:27-5.

"Official map" means a map adopted by ordinance pursuant to article 5 of P.L.1975, c.291.

"Offsite" means located outside the lot lines of the lot in question but within the property, of which the lot is a part, which is the subject of a development application or the closest half of the street or right-of-way abutting the property of which the lot is a part.

"Off-tract" means not located on the property which is the subject of a development application nor on the closest half of the abutting street or right-of-way.

"Onsite" means located on the lot in question and excluding any abutting street or right-of-way.

"On-tract" means located on the property which is the subject of a development application or on the closest half of an abutting street or right-of-way.

"Open-space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land or support its use for recreation and conservation purposes.

7. This act shall take effect immediately.

Approved July 9, 2021.

CHAPTER 172

AN ACT concerning strangulation assault and amending N.J.S.2C:12-1.

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

1. N.J.S.2C:12-1 is amended to read as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if the person:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if the person:

(1) Attempts to cause serious bodily injury to another, or causes injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section upon:

(a) Any law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of authority or because of the officer's status as a law enforcement officer; or

(b) Any paid or volunteer firefighter acting in the performance of the firefighter's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a firefighter; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of the person's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver, or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a school bus driver; or

(e) Any employee of the Division of Child Protection and Permanency while clearly identifiable as being engaged in the performance of the employee's duties or because of the status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of the status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of the person's duties or because of the status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of the person's duties while in uniform or exhibiting evidence of the person's authority or because of the status as a Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer, sheriff, undersheriff, or sheriff's officer; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of the employee's duties in regard to connecting, disconnecting, or repairing or attempting to connect, disconnect, or repair any gas, electric, or water utility, or cable television or telecommunication service; or

(j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or

(k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof

of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this paragraph, "emergency services personnel" shall include, but not be limited to, any paid or volunteer firefighter, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten, or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of the officer's authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm; or

(12) Attempts to cause significant bodily injury or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly causes significant bodily injury to a person who, with respect to the actor, meets the definition

of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19); or

(13) Knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly obstructs the breathing or blood circulation of a person who, with respect to the actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by applying pressure on the throat or neck or blocking the nose or mouth of such person, thereby causing or attempting to cause bodily injury.

Aggravated assault under paragraphs (1) and (6) of subsection b. of this section is a crime of the second degree; under paragraphs (2), (7), (9), and (10) of subsection b. of this section is a crime of the third degree; under paragraphs (3) and (4) of subsection b. of this section is a crime of the fourth degree; and under paragraph (5) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under paragraph (8) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under paragraph (11) of subsection b. of this section is a crime of the third degree. Aggravated assault under paragraph (12) of subsection b. of this section is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply. Aggravated assault under paragraph (13) of subsection b. of this section is a crime of the second degree.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3) may give rise to an inference that the defendant was driving recklessly.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this subsection.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) Assault by auto or vessel is a crime of the third degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and serious bodily injury results and is a crime of the fourth degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and bodily injury results. For purposes of this paragraph, "driving a vehicle in an aggressive manner" shall include, but is not limited to, unexpectedly altering the speed of the vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, or following another vehicle too closely.

As used in this subsection, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. (Deleted by amendment, P.L.2001, c.443)

f. A person who commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is guilty of a crime of the fourth degree. The defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition, practice, or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

2. This act shall take effect immediately.

Approved July 12, 2021.

CHAPTER 173

AN ACT making federal funds available to the New Jersey Economic Development Authority to support eligible entities impacted by the COVID-19 pandemic.

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

1. a. Subject to the availability of federal funds provided or made accessible to the State via federal block grant funds allocated to the State from the federal "Coronavirus State Fiscal Recovery Fund," established pursuant to the federal "American Rescue Plan Act of 2021," Pub.L.117-2, $135,000,000 from such federal funds shall be made available to the New Jersey Economic Development Authority for the following purposes:

(1) $55,000,000 to provide financial assistance to eligible microbusinesses, pursuant to section 1 of P.L.2021, c.42;

(2) $10,000,000 to provide financial assistance to eligible arts and culture for-profit organizations, pursuant to section 1 of P.L.2021, c.43;

(3) $15,000,000 to provide financial assistance to eligible food and beverage establishments, pursuant to section 1 of P.L.2021, c.45;

(4) $45,000,000 to provide financial assistance to eligible businesses and nonprofit organizations, pursuant to section 1 of P.L.2021, c.46; and

(5) $10,000,000 to provide financial assistance to eligible child care providers, pursuant to section 1 of P.L.2021, c.47.

b. Notwithstanding any provision of this section to the contrary, the authority may transfer the uncommitted balance of any funds made available pursuant to this section to any program established pursuant to P.L.2021, c.42, P.L.2021, c.43, P.L.2021, c.45, P.L.2021, c.46, P.L.2021, c.47, or P.L.2021, c.115; provided, however, that the authority shall submit notice to the Joint Budget Oversight Committee no less than five calendar days before the date of the transfer. At a minimum, the notice shall indicate the amount of and purpose for the transferred funds.

2. This act shall take effect immediately.

Approved July 21, 2021.

CHAPTER 174

AN ACT concerning access to higher education for veterans and members of the military, amending P.L.1997, c.377,and supplementing chapter 62 of Title 18A of the New Jersey Statutes.

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

1. Section 1 of P.L.1997, c.377 (C.18A:62-4.2) is amended to read as follows:

C.18A:62-4.2 Options for student at public institution of higher education unable to complete course due to military service.

1. a. A student at a New Jersey public institution of higher education who is unable to complete a course due to deployment, mobilization, reassignment, or other military obligation as a service member shall be entitled to the options set forth in this section with respect to the student's grade for the course.

b. A student who has completed at least eight weeks of attendance in a course may choose to:

(1) receive a letter grade; or

(2) receive a grade of pass or fail; or

(3) receive a grade of incomplete; or

(4) withdraw from the course.

c. A student who has completed less than eight weeks of attendance in a course may choose to:

(1) receive a grade of incomplete; or

(2) withdraw from the course.

d. A letter grade or a grade of pass shall only be awarded if, in the opinion of the faculty member teaching the course, the student has completed sufficient work, and there is sufficient evidence of progress toward meeting the requirements of the course, to justify the grade.

e. A grade of incomplete shall remain valid for a period of one year after the student returns to the New Jersey public institution of higher education.

f. A student who chooses to accept a grade of pass or fail may, within one year after returning to the New Jersey public institution of higher education, receive a letter grade for the course by completing the work required for the course, in which case the letter grade shall replace the pass or fail grade as the student's grade for the course.

g. A student who chooses to withdraw from a course shall receive a full refund of tuition and fees attributable to that course.

h. A student who has paid amounts for room, board or fees shall, except as provided in subsection g. of this section, receive a refund of that portion of those amounts attributable to the time period during which the student did not use the services for which payment was made.

i. Any refund payable to a student who is a financial aid recipient shall be subject to the applicable State and federal regulations regarding refunds.

j. As used in this section, "service member" means an individual who is serving as a member of a Reserve component of the Armed Forces of the United States, or as a member of the National Guard, or on active duty as a member of the Armed Forces of the United States.

C.18A:62-4.3c Definitions; certain institutions to establish policies, procedures.

2. a. As used in this section:

"Service member" means an individual who is serving as a member of a Reserve component of the Armed Forces of the United States, or as a member of the National Guard, or on active duty as a member of the Armed Forces of the United States.

"Veteran" means an individual who served as a member of a Reserve component of the Armed Forces of the United States, or as a member of the National Guard, or on active duty in the Armed Forces of the United States, and who was honorably discharged or released under honorable circumstances from active service.

b. Notwithstanding any provision of law to the contrary, each public institution of higher education shall establish policies and procedures to permit the late registration of a student who is a veteran or a service member upon the student's return from deployment, mobilization, reassignment, or other military obligation. The institution shall not charge a late fee or similar penalty on a registration submitted pursuant to this subsection.

Nothing in this subsection shall be construed to require any public institution of higher education to admit a student or to waive its admission standards.

3. This act shall take effect immediately and shall first apply to the first full academic year following the date of enactment.

Approved July 22, 2021.

CHAPTER 175

AN ACT extending the veterans' property tax exemption to certain veterans and amending and supplementing P.L.1948, c.259.

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

1. Section 4 of P.L.1948, c.259 (C.54:4-3.33) is amended to read as follows:

C.54:4-3.33 "Dwelling house" defined.

4. "Dwelling house," as used in P.L.1948, c.259 (C.54:4-3.30 et seq.), shall mean any one-family building or structure or any apartment of a horizontal property regime established pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.) or any unit of a condominium property established pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) owned and occupied by a claimant as his legal residence in this State, or any unit in a cooperative established pursuant to "The Cooperative Recording Act of New Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.), or a mutual housing corporation as defined in section 2 of P.L.1990, c.61 (C.54:4-8.58), which is occupied by a

claimant who is a tenant shareholder in that cooperative or mutual housing corporation as the claimant's legal residence in this State, or where a multiple-family building or structure is owned by a claimant, then that portion thereof which is occupied by the claimant as his legal residence in this State, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith.

C.54:4-3.30a Exemption from taxation for certain tenants.

2. For the purposes of P.L.1948, c.259 (C.54:4-3.30 et seq.) a tenant shareholder in a cooperative or mutual housing corporation shall be entitled to an exemption from taxation under that act only to the extent of his proportionate share of the taxes assessed against the real property of the corporation or any other entity holding title to that real property. The Director of the Division of Taxation in the Department of the Treasury shall promulgate regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to: require that the application for the exemption shall include the name and address of the location of the property and the amount of real property taxes attributed to the cooperative unit or mutual housing residential unit; and ensure that the disabled veteran or surviving spouse, as the case may be, is the sole beneficiary of the disabled veterans' property tax exemption provided by P.L.1948, c.259 (C.54:4-3.30 et seq.).

3. This act shall take effect January 1 next following enactment.

Approved July 22, 2021.

CHAPTER 176

AN ACT establishing a Troops to College Grant Program and amending P.L.2009, c.125.

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

1. Section 2 of P.L.2009, c.125 (C.18A:3B-42) is amended to read as follows:

C.18A:3B-42 Troops to College Grant Program.

2. a. The Secretary of Higher Education, in consultation with the Department of Military and Veterans' Affairs, shall establish the Troops to

College Program. The purpose of the program shall be to assist New Jersey's institutions of higher education in coordinating the provision of a comprehensive array of services to assist veterans in making the transition into the college classroom. The services may include, but need not be limited to, assistance in applying for State and federal student financial aid, counseling resources, a campus veterans' assistance officer to provide a single point of contact for information on the institution's benefits and programs for veterans, and an online resource to consolidate pertinent information specifically for veterans attending that institution.

b. The secretary in implementing the Troops to College Program shall include on its Internet site information to assist veterans in accessing the higher education opportunities that exist in the State. The information shall include, but need not be limited to:

(1) contact information for the campus veterans' assistance officer at each of the institutions of higher education; and

(2) information on the array of programs and services available to veterans at each of the institutions of higher education.

c. The secretary, in consultation with the department, shall establish a Troops to College Grant Program. Under the program, the secretary shall annually select up to three institutions of higher education to receive a $150,000 Troops to College grant. In order to receive a grant, an institution shall demonstrate that it is providing a comprehensive array of services, benefits, and programs for veterans attending the institution. In awarding a grant to an institution, the secretary shall consider the following factors:

(1) the total number of self-reporting veterans enrolled in the institution;

(2) the existence of a veterans' affairs office at the institution and the number of staff assigned to the office;

(3) whether the institution has entered into the Department of Defense Voluntary Education Partnership Memorandum of Understanding;

(4) whether the institution's tuition and fees are at or below the minimum limits established by the "Post-9/11 Veterans Educational Assistance Act of 2008," Pub.L.110-252 (38 U.S.C. s.3301 et seq.);

(5) whether the institution participates in the Yellow Ribbon Program of the "Post-9/11 Veterans Educational Assistance Act of 2008," Pub.L.110-252 (38 U.S.C. s.3301 et seq.);

(6) whether the institution waives its application fee and offers priority registration to veterans;

(7) the level of academic and staff support provided to veterans enrolled in the institution;

(8) the number and type of extracurricular activities designed for and offered to veterans enrolled in the institution;

(9) the amount of institutional funds allocated to support veterans enrolled in the institution, including the number of scholarships offered to veteran students;

(10) whether the institution offers veteran housing or provides an area on campus where veteran students may meet and discuss issues of common interest;

(11) the course completion rate of self-reporting veterans enrolled in the institution;

(12) the institution's retention and graduation rates for self-reporting veterans enrolled in the institution;

(13) the student loan default rate for self-reporting veterans enrolled in the institution; and

(14) the employment and salary status of self-reporting veterans six years following graduation from the institution.

2. This act shall take effect in the first full academic year following enactment.

Approved July 22, 2021.

CHAPTER 177

AN ACT concerning disclosure of automobile insurance policy limits and supplementing P.L.1972, c.70 (C.39:6A-1 et seq.).

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

C.39:6A-13.2 Disclosure of policy limits to attorney.

1. a. An insurer who receives a request, from an attorney admitted to the practice of law in this State, for disclosure of the policy limits under a private passenger automobile insurance policy issued by the insurer to an insured, shall provide written disclosure of the policy limits to the attorney no later than 30 days from receipt of the request. The disclosure shall indicate the limits of all private passenger automobile insurance policies and any applicable umbrella or excess liability insurance policies issued by the insurer to the insured.

b. A request for disclosure of policy limits shall be in writing and shall include:

(1) a statement that the attorney represents an individual who has suffered bodily injury or death alleged to be caused by a motor vehicle accident with an insured under a private passenger automobile insurance policy issued by the insurer;

(2) the name and last known address of the insured;

(3) the date and approximate time of the motor vehicle accident;

(4) a copy of the accident report, if available, relating to the motor vehicle accident; and

(5) a statement from the claimant, or an attorney representing the claimant, providing insurance information, which shall include the claimant's:

(a) insurer, policy number, and policyholder name;

(b) tort threshold selection; and

(c) personal injury protection coverage limit.

c. Disclosure of policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy.

d. Information concerning the insurance policy shall not be admissible as evidence at trial by reason of disclosure pursuant to this section. The disclosure shall be confidential and available only to the individual injured and the attorney representing the injured person and personnel in the office of the attorney.

e. The Department of Banking and Insurance shall publish on its website the email address of each insurer, which shall be supplied by each insurer issuing private passenger automobile policies in this State, for the purpose of receiving requests for policy limit disclosures pursuant to this section.

2. This act shall take effect immediately, except subsection e. of section 1 of this act shall take effect on the 60th day next following enactment.

Approved July 22, 2021.

CHAPTER 178

AN ACT concerning offshore wind projects and amending P.L.2010, c.57.

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

1. Section 3 of P.L.2010, c.57 (C.48:3-87.1) is amended to read as follows:

C.48:3-87.1 Application to construct offshore wind project.

3. a. An entity seeking to construct an offshore wind project shall submit an application to the board for approval by the board as a qualified offshore wind project, which shall include, but need not be limited to, the following information:

(1) a detailed description of the project, including maps, surveys and other visual aides. This description shall include, but need not be limited to: the type, size, and number of proposed turbines and foundations; the history to-date of the same type, size and manufacturer of installed turbines and foundations globally; a detailed description of the transmission facilities and interconnection facilities to be installed; and a detailed implementation plan that highlights key milestone activities during the permitting, financing, design, equipment solicitation, manufacturing, shipping, assembly, in-field installation, testing, equipment commissioning, and service start-up;

(2) a completed financial analysis of the project including pro forma income statements, balance sheets, and cash flow projections for a 20-year period, including the internal rate of return, and a description and estimate of any State or federal tax benefits that may be associated with the project;

(3) the proposed method of financing the project, including identification of equity investors, fixed income investors, and any other sources of capital;

(4) documentation that the entity has applied for all eligible federal funds and programs available to offset the cost of the project or provide tax advantages;

(5) the projected electrical output and anticipated market prices over the anticipated life of the project, including a forecast of electricity revenues from the sale of energy derived from the project and capacity, as well as revenues anticipated by the sale of any ORECs, RECs, air emission credits or offsets, or any tradable environmental attributes created by the project;

(6) an operations and maintenance plan for the initial 20-year operation of the project that: details routine, intermittent, and emergency protocols; identifies the primary risks to the built infrastructure and how the potential risks, including but not limited to hurricanes, lightning, fog, rogue wave occurrences, and exposed cabling, shall be mitigated; and identifies specific and concrete elements to ensure both construction and operational cost controls. This operations and maintenance plan shall be integrated into the financial analysis of the project, and shall identify the projected plan for the subsequent 20 years, following conclusion of the initial 20-year operations, assuming any necessary federal lease agreements are maintained and renewed;

(7) the anticipated carbon dioxide emissions impact of the project;

(8) a decommissioning plan for the project including provisions for financial assurance for decommissioning as required by the applicable State and federal governmental entities;

(9) a list of all State and federal regulatory agency approvals, permits, or other authorizations required pursuant to State and federal law for the offshore wind project, and copies of all submitted permit applications and any issued approvals and permits for the offshore wind project;

(10) a cost-benefit analysis for the project including at a minimum:

(a) a detailed input-output analysis of the impact of the project on income, employment, wages, indirect business taxes, and output in the State with particular emphasis on in-State manufacturing employment;

(b) an explanation of the location, type, and salary of employment opportunities to be created by the project with job totals expressed as full-time equivalent positions assuming 1,820 hours per year;

(c) an analysis of the anticipated environmental benefits and environmental impacts of the project; and

(d) an analysis of the potential impacts on residential and industrial ratepayers of electricity rates over the life of the project that may be caused by incorporating any State subsidy into rates;

(11) a proposed OREC pricing method and schedule for the board to consider;

(12) a timeline for the permitting, licensing, and construction of the proposed offshore wind project;

(13) a plan for interconnection, including engineering specifications and costs; and

(14) any other information deemed necessary by the board in order to conduct a thorough evaluation of the proposal. The board may hire consultants or other experts if the board determines that obtaining such outside expertise would be beneficial to the review of the proposal.

b. (1) In considering an application for a qualified offshore wind project, submitted pursuant to subsection a. of this section, the board shall determine that the application satisfies the following conditions:

(a) the filing is consistent with the New Jersey energy master plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14), in effect at the time the board is considering the application;

(b) the cost-benefit analysis, submitted pursuant to paragraph (10) of subsection a. of this section, demonstrates positive economic and environmental net benefits to the State;

(c) the financing mechanism is based upon the actual electrical output of the project, fairly balances the risks and rewards of the project between

ratepayers and shareholders, and ensures that any costs of non-performance, in either the construction or operational phase of the project, shall be borne by shareholders; and

(d) the entity proposing the project demonstrates financial integrity and sufficient access to capital to allow for a reasonable expectation of completion of construction of the project.

(2) In considering an application for a qualified offshore wind project, submitted pursuant to subsection a. of this section, the board shall also consider:

(a) the total level of subsidies to be paid by ratepayers for qualified offshore wind projects over the life of the project; and

(b) any other elements the board deems appropriate in conjunction with the application.

c. An order issued by the board to approve an application for a qualified offshore wind project pursuant to this section shall, at a minimum, include conditions to ensure the following:

(1) no OREC shall be paid until electricity is produced by the qualified offshore wind project;

(2) ORECs shall be paid on the actual electrical output delivered into the transmission system of the State;

(3) ratepayers and the State shall be held harmless for any cost overruns associated with the project; and

(4) the applicant will reimburse the board and the State for all reasonable costs incurred for regulatory review of the project, including but not limited to consulting services, oversight, inspections, and audits.

An order issued by the board pursuant to this subsection shall specify the value of the OREC and the term of the order.

An order issued by the board pursuant to this subsection shall not be modified by subsequent board orders, unless the modifications are jointly agreed to by the parties.

d. The board shall review and approve, conditionally approve, or deny an application submitted pursuant to this section within 180 days after the date a complete application is submitted to the board.

e. Notwithstanding any provision of P.L.2010, c.57 (C.48:3-87.1 et al.) to the contrary, the board may conduct one or more competitive solicitations for open access offshore wind transmission facilities designed to facilitate the collection of offshore wind energy from qualified offshore wind projects or its delivery to the electric transmission system in this State.

f. Notwithstanding the provisions of any other State law, rule, or regulation to the contrary, a qualified offshore wind project or an open access offshore wind transmission facility approved by the board pursuant to this

section shall, after consultation with a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof:

(1) have authority to place, replace, construct, reconstruct, install, reinstall, add to, extend, use, operate, inspect, and maintain wires, conduits, lines, and associated infrastructure, whether within, under, or upon the public streets, thoroughfares, or rights-of-way of any municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, provided that the wires, conduits, lines, and associated infrastructure are located underground, except to the extent necessary as determined by the board.

Notwithstanding the provisions of any other State law, rule, or regulation to the contrary, no municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, shall prohibit, or charge a fee for, the use of public streets, thoroughfares, or rights-of-way for the purposes set forth in this subsection, other than a fee for a road opening permit, and the issuance of a road opening permit shall not be withheld, except for bona fide public safety reasons;

(2) be authorized to obtain easements, rights-of-way, or other real property interests on, over, or through any real property other than public streets, thoroughfares, or rights-of-way, owned by a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, that are reasonably necessary for the construction or operation of a qualified offshore wind project or an open access offshore wind transmission facility. If a qualified offshore wind project or an open access offshore wind transmission facility is unable to obtain an easement, right-of-way, or other real property interest from a municipality, county, or other political subdivision of the State, or any agency, authority, or other entity thereof, after 90 days of a written request therefor to the applicable entity, the qualified offshore wind project or open access offshore wind transmission facility, as the case may be, may file a petition with the board seeking authority to obtain the easement, right-of-way, or other real property interest.

In considering a petition submitted pursuant to this paragraph, the board shall: conduct, or cause to be conducted, a public hearing in order to provide an opportunity for public input on the petition. Notice of the public hearing shall be given in a manner and form as determined by the board in order to provide an opportunity for public input to be received on the petition. At a minimum, notice of the public hearing shall be provided to the news media, the owner of the real property subject to the petition, and the governing body and municipal clerk of the municipality and the clerk of the county in which the lands proposed to be conveyed are located. The notice of the public hearing shall provide the date, time, and location of the public hearing,

identification of the project and property that is the subject of the petition, and any other information deemed appropriate by the board.

Following the public hearing and receipt of public comment on the petition, the board shall determine whether the requested easement, right-of-way, or other real property interest are reasonably necessary for the construction or operation of the qualified offshore wind project or open access offshore wind transmission facility.

If the board determines that the requested easement, right-of-way, or other real property interest are reasonably necessary for the construction or operation of the qualified offshore wind project or open access offshore wind transmission facility, the board shall issue an order approving the acquisition of the requested easement, right-of-way, or other real property interest, and notwithstanding the provisions of any other State law, rule, or regulation to the contrary, such order shall effectuate the qualified offshore wind project's or the open access offshore wind transmission facility's property interest and shall be recorded by the appropriate county recording officer at the request of the qualified offshore wind project or open access offshore wind transmission facility. Upon recording of an order pursuant to this paragraph that concerns land preserved for recreation and conservation purposes, as defined in section 3 of P.L.1999, c.152 (C.13:8C-3), the entity constructing the qualified offshore wind project or the open access offshore wind transmission facility, as the case may be, shall be: considered the legal or record owner of the property interest; and subject to the rules and regulations adopted by the Department of Environmental Protection concerning the conveyance, diversion, or disposal of lands preserved for recreation and conservation purposes. The entity constructing the qualified offshore wind project or the open access offshore wind transmission facility shall be responsible for the restoration and maintenance of the area of land subject to an order pursuant to this paragraph. Payment of fair compensation for the easement, right-of-way, or other real property interest shall be made to the appropriate entity pursuant to the procedures set forth in the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.). The acquisition of an easement, right-of-way, or other real property interest pursuant to this paragraph shall not be subject to any public bidding requirements.

If an order issued by the board pursuant to this paragraph concerns an easement, right-of-way, or other real property interest located on, over, or through land preserved for recreation and conservation purposes, as defined in section 3 of P.L.1999, c.152 (C.13:8C-3), the entity constructing the qualified offshore wind project or open access offshore wind transmission facility shall: pay fair market value for the easement, right-of-way, or other real property interest to the owner of the preserved land; and provide funds to the Department

of Environmental Protection's Office of Green Acres, established pursuant to section 24 of P.L.1999, c.152 (C.13:8C-24), a local government unit, or a qualifying tax exempt nonprofit organization, as defined in section 3 of P.L.1999, c.152 (C.13:8C-3), for the acquisition of three times the area of preserved land within the easement, right-of-way, or other real property interest subject to the board's order in additional land for recreation and conservation purposes within the same county within three years after the board's order pursuant to this paragraph. Any compensation for preserved land received pursuant to this paragraph shall be used for the acquisition of land for recreation and conservation purposes, as defined in section 3 of P.L.1999, c.152 (C.13:8C-3), and may, in the discretion of the Commissioner of Environmental Protection and the State House Commission, be found to satisfy the compensation requirements of the rules and regulations adopted by the Department of Environmental Protection concerning the conveyance, diversion, or disposal of lands preserved for recreation and conservation purposes; and

(3) be authorized to file a petition with the board seeking a determination that all municipal or county approvals, consents, or affirmative filings with other public entities required to construct or operate a qualified offshore wind project or an open access offshore wind transmission facility are preempted and superseded, upon a finding by the board that such municipal or county approvals, consents, or affirmative filings are reasonably necessary for the construction or operation of the qualified offshore wind project or the open access offshore wind transmission facility. If the board makes a determination pursuant to this paragraph preempting a municipal or county action that is a condition of the issuance of a permit or other approval of the Department of Environmental Protection or any other department or agency of the State, then notwithstanding the provisions of any other State law, rule, or regulation to the contrary, the department or agency, as applicable, may act without prior municipal or county approval, consent, or affirmative filing. To the extent that a municipal or county approval, consent, or affirmative filing involves the acquisition of an easement, right-of-way, or other real property interest, the procedures set forth in paragraph (2) of this subsection shall apply.

g. A qualified offshore wind project or an open access offshore wind transmission facility approved by the board pursuant to this section shall be deemed to be an electric power generator for the purposes of section 10 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-19), and the qualified offshore wind project or open access offshore wind transmission facility may proceed in accordance with the decision of the board, notwithstanding any provision of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-19), or any ordinance, rule, or regulation adopted pursuant thereto, to the contrary;

provided that the board determines: (1) that, for the purposes of the qualified offshore wind project or the open access offshore wind transmission facility, the electric power generator described in a petition filed with the board is necessary for the service, convenience, or welfare of the public, or that the qualified offshore wind project or the open access offshore wind transmission facility will provide a net benefit to the environment of the State; and (2) that no alternative site is reasonably available to achieve an equivalent public benefit.

2. This act shall take effect immediately.

Approved July 22, 2021.

CHAPTER 179

AN ACT concerning notaries, and amending, supplementing, and repealing various parts of the statutory law.

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

1. Section 1 of P.L.1979, c.460 (C.52:7-10) is amended to read as follows:

C.52:7-10 Short title.

1. Short title.

This act shall be known and may be cited as the "New Jersey Law on Notarial Acts."

C.52:7-10.1 Definitions.

2. Definitions.

As used in P.L.2021, c.179 (C.52:7-10.1 et al.):

a. "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

b. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

c. "Electronic signature" means an electronic symbol, sound, or process attached to, or logically associated with, a record and executed or adopted by an individual with the intent to sign the record.

d. "In a representative capacity" means acting as:

(1) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(2) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(3) An agent or attorney-in-fact for a principal; or

(4) An authorized representative of another in any other capacity.

e. "Non-attorney applicant" means an applicant for an initial or renewal commission as a notary public who is not also a licensed attorney-at-law in this State.

f. "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of New Jersey. The term includes:

(1) taking an acknowledgment,

(2) administering an oath or affirmation,

(3) taking a verification on oath or affirmation,

(4) witnessing or attesting a signature,

(5) certifying or attesting a copy or deposition, and

(6) noting a protest of a negotiable instrument.

g. "Notarial officer" means a notary public or other individual authorized by law to perform a notarial act.

h. "Notary public" means an individual commissioned by the State Treasurer to perform a notarial act.

i. "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to, or logically associated with, an electronic record.

j. "Person" has the meaning ascribed to it in R.S.1:1-2.

k. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

l. "Sign" means, with present intent to authenticate or adopt a record:

(1) To execute or adopt a tangible symbol; or

(2) To attach to or logically associate with the record an electronic symbol, sound, or process.

m. "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

n. "Stamping device" means:

(1) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(2) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

o. "State" means the State of New Jersey; "other state" or "another state" means any state, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other insular possession or territory of the United States other than the State of New Jersey.

p. "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

3. Section 2 of P.L.1979, c.460 (C.52:7-11) is amended to read as follows:

C.52:7-11 Commission; term; application; renewal.

2. Commission; Term; Application; Renewal.

a. The State Treasurer may commission so many notaries public as the State Treasurer deems necessary to commission. Notaries public shall hold their respective offices for a term of five years.

b. An applicant for commission as a notary public shall make application to the State Treasurer on a form prescribed by the State Treasurer and endorsed by a member of the Legislature. Renewals shall be made in the same manner as the original application. All applications shall be submitted electronically.

The application form shall provide a notice to the applicant that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The application form shall also state that a notary public who advertises the notary public's services in any language is required to provide with such advertisement a notice in the language of the advertisement which contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

c. The State Treasurer shall collect a nonrefundable fee of $25 for each commission or renewal. In collecting the fee, the State Treasurer shall accept the use of a credit card, debit card, or electronic funds transfer.

4. Section 3 of P.L.1979, c.460 (C.52:7-12) is amended to read as follows:

C.52:7-12 Qualifications.

3. Qualifications.

a. A person commissioned as a notary public in this State shall:

(1) be at the time of appointment at least 18 years of age;

(2) be at the time of appointment a legal resident of this State or have a place of employment or practice in this State; and

(3) not be disqualified to receive a commission under section 9 of P.L.2021, c.179 (C.52:7-10.4 et al.).

b. A non-attorney applicant for an initial commission as a notary public shall provide satisfactory proof that the applicant has:

(1) completed a course of study approved by the State Treasurer pursuant to subsection b. of section 6 of P.L.2021, c.179 (C.52:7-10.2); and

(2) passed an examination prescribed by the State Treasurer pursuant to section 7 of P.L.2021, c.179 (C.52:7-10.3).

c. A non-attorney commissioned notary public applying to renew a commission who has satisfactorily completed a course of study required pursuant to subsection b. of section 6 of P.L.2021, c.179 (C.52:7-10.2) at least one time, or who was commissioned for the first time before the effective date of P.L.2021, c.179 (C.52:7-10.1 et al.) shall complete a continuing education course as set forth in subsection c. of section 6 of P.L.2021, c.179 (C.52:7-10.2) and provide satisfactory proof of such completion.

5. Section 4 of P.L.1979, c.460 (C.52:7-13) is amended to read as follows:

C.52:7-13 Commission of nonresidents; additional requirements.

4. Commission of Nonresidents; Additional Requirements.

a. No person shall be denied a commission as a notary public on account of residence outside this State, provided such person maintains, or is regularly employed in, an office in this State or is an employee of a business with its domicile or primary place of business in this State and performs his employment duties remotely from a home office or a co-working space.

b. In addition to the requirements of section 3 of P.L.1979, c.460 (C.52:7-12), any nonresident shall file with the State Treasurer at the time of application a certificate setting forth the residence and the address of the applicant, and the office or place of employment of the applicant in this State.

c. Once commissioned, any such nonresident notary public shall file with the State Treasurer a certificate showing any change of residence or change of the office or place of employment of the notary public in this State.

C.52:7-10.2 Course of study; continuing education.

6. Course of Study; Continuing Education.

a. The provisions of this section do not apply to notaries public who are also licensed attorneys-at-law in this State.

b. A non-attorney applicant for an initial commission as a notary public pursuant to section 2 of P.L.1979, c.460 (C.52:7-11) shall comply with all educational requirements that the State Treasurer shall set forth in rules adopted pursuant to the "Administrative Procedure Act," P.L.1969, c.410 (C.52:14B-1 et seq.). The State Treasurer shall prescribe and approve a course of study to foster and confirm applicants' understanding of the principles and standards that govern notarial practices. Applicants shall be required to acknowledge that they have read and understood the Notary Public Manual and complete any other educational programs that the Treasurer may require.

c. A non-attorney applicant for renewal of a commission pursuant to section 2 of P.L.1979, c.460 (C.52:7-11) who has previously completed the educational requirements required pursuant to subsection b. of this section at least one time, or who was commissioned for the first time before the effective date of P.L.2021, c.179 (C.52:7-10.1 et al.) shall comply with any additional educational requirements that the State Treasurer sets forth in rules adopted pursuant to the "Administrative Procedure Act," P.L.1969, c.410 (C.52:14B-1 et seq.). The State Treasurer shall prescribe and approve a continuing education course for non-attorney applicants seeking a renewal of a commission pursuant to section 2 of P.L.1979, c.460 (C.52:7-11).

d. The State Treasurer shall prescribe an application form and certificate of approval for any notary public course of study and any notary public continuing education course proposed by a provider. The State Treasurer may also provide a notary public course of study and continuing education course.

e. Any course of study developed pursuant to subsections b. and c. of this section may be given by the State Treasurer or by independent vendors.

f. The State Treasurer shall compile a list of all independent vendors offering an approved course of study and continuing education course pursuant to this section and shall provide the list on the website of the State Treasurer.

g. Any course of study for a non-attorney applicant for an initial commission shall cover the statutes, regulations, procedures, and ethics for notaries public as described in the manual issued by the State Treasurer, and shall include the duties and responsibilities of a notary public. The course of study may be provided by classroom instruction, by online instruction, or by any other method approved by the State Treasurer.

h. Any continuing education course for a non-attorney applicant for renewal of a commission shall cover topics which ensure maintenance and enhancement of skill, knowledge, and competency necessary to perform notarial acts. The continuing education course may be provided by online instruction, classroom instruction, or by any other method approved by the State Treasurer.

i. The Treasurer shall regularly assess the efficacy of the State's notarial education program. The Treasurer shall adjust the program's content as notarial technologies and processes evolve, and publish on the Treasury website, on or before September 30 each year, a report on the state of notary education in New Jersey. The report shall contain a summary of commissioning activity, an assessment regarding the need for new or changed educational content, and the estimated timelines for delivering the new or changed content.

C.52:7-10.3 Examination.

7. Examination.

a. The provisions of this section do not apply to applicants who are licensed attorneys-at-law in this State.

b. The State Treasurer shall prescribe an examination to determine the fitness of a non-attorney applicant to exercise the functions of a notary public as provided in section 2 of P.L.1979, c.460 (C.52:7-11). The examination shall:

(1) be based on the statutes, rules, regulations, procedures, and ethical requirements for notaries public as described in the manual issued by the State Treasurer; and

(2) include the requirements, functions, duties, and responsibilities of a notary public.

c. The examination required by subsection b. may be given by the State Treasurer or by an independent vendor under contract to the State Treasurer. If a contract vendor is utilized, the contract vendor shall develop and administer the examination in accordance with specifications approved by the State Treasurer. The State Treasurer shall have the sole responsibility for establishing minimum qualifications and passing requirements of candidates taking the examination.

d. The State Treasurer shall establish a nonrefundable fee which shall be payable at the examination site. Such fee shall be established or changed by the State Treasurer taking into consideration the fee charged by any independent contract vendor to develop and administer the examination, and consideration of the need to defray any proper expenses incurred by the Department of the Treasury in its administration of any independent contract

vendor administering the examination. The fee shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

8. Section 5 of P.L.1979, c.460 (C.52:7-14) is amended to read as follows:

C.52:7-14 Oath; filing; certificate of commission.

5. Oath; Filing; Certificate of Commission.

a. Within three months of the receipt of a commission, each notary public shall take and subscribe an oath before the clerk of the county in which the notary public resides, to faithfully and honestly discharge the duties of the office; and make and keep a true record of all such matters as are required by law, which oath shall be filed with the clerk. The oath of office of a nonresident notary public shall be taken and subscribed before the clerk of the county in which the nonresident notary public maintains the notary public's office or the county in which the nonresident notary public is an employee of a business with its domicile or primary place of business in this State.

b. Upon the administration of the oath, the clerk shall cause the notary public to endorse the certificate of commission and qualification and shall transmit the certificate to the State Treasurer within 10 days of the administration of the oath. After the administration of the oath, the clerk shall provide a notice to the person that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The notice shall also state that a notary public who advertises the notary public's services, in any language, is required to provide with such advertisement a notice in the language of the advertisement which contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

c. The State Treasurer shall cancel and revoke the appointment of any notary public who fails to take and subscribe the oath within three months of the receipt of the commission and any appointment so canceled and revoked shall be null, void and of no effect. A commission authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the law of this State on public officials or employees.

C.52:7-10.4 Grounds for State Treasurer to deny application, refuse to renew commission, or revoke, suspend, or limit commission.

9. Grounds for State Treasurer to Deny Application, Refuse to Renew Commission, or Revoke, Suspend, or Limit Commission.

a. The State Treasurer may deny an application for commission as a notary public; refuse to renew a commission of a notary public; or suspend, revoke, or otherwise limit the commission of a notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability necessary to act as a notary public, including:

(1) failure to comply with P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.);

(2) a fraudulent, dishonest, or deceitful misstatement or omission in the application for commission as a notary public submitted to the State Treasurer;

(3) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on fraud, dishonesty, or deceit, including but not limited to a violation of section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-22), but nothing in this paragraph shall be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.);

(4) a conviction of a crime of the second degree or above, but nothing in this paragraph shall be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.);

(5) failure by the notary public to discharge any duty required by any law, including P.L.1979, c.460 (C.52:7-10 et seq.), any rules or regulations promulgated thereunder by the State Treasurer, and any other State or federal law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary is commissioned, licensed, or authorized to practice or engage in work that the notary is not commissioned, licensed, or authorized to engage in;

(7) in the case of a notary public who is not an attorney licensed to practice law, any of the following:

(a) giving legal advice;

(b) acting as an immigration consultant or an expert on immigration matters;

(c) otherwise performing the duties of an attorney licensed to practice law in New Jersey;

(d) a disciplinary or other administrative action resulting in a finding of culpability if the applicant holds any professional license regulated by the State; or

(e) creating or reinforcing, by any means, a false impression that the person is licensed to engage in the practice of law in this State or any other state, including, but not limited to, committing a violation of P.L.1994, c.47 (C.2C:21-22) or P.L.1997, c.1 (C.2C:21-31);

(8) failure to take and subscribe to the oath pursuant to section 5 of P.L.1979, c.460 (C.52:7-14) within three months of the receipt of a notary public commission;

(9) withholding access to or possession of an original record or photocopy provided by a person who seeks performance of a notarial act by the notary public, except where allowed by law; or

(10) the denial of an application for notary public in another state; the refusal to renew in another state; or the suspension, revocation, or other limitation of the commission of the notary public in another state.

b. If the State Treasurer denies an application for notary public; refuses to renew a commission of a notary public; or suspends, revokes, or otherwise limits the commission of a notary public, the applicant or the notary public is entitled to timely notice and hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. The authority of the State Treasurer to deny an application for notary public; refuse to renew a commission of a notary public; or suspend, revoke, or otherwise limit the commission of a notary public shall not prevent a person aggrieved by the actions of a notary public from seeking other criminal or civil remedies provided by law.

10. Section 6 of P.L.1979, c.460 (C.52:7-15) is amended to read as follows:

C.52:7-15 Statewide authority.

6. Statewide authority.

A notary public who has been duly commissioned and qualified is authorized to perform the duties of a notary public throughout the State.

11. Section 8 of P.L.1979, c.460 (C.52:7-17) is amended to read as follows:

C.52:7-17 Manual.

8. Manual.

a. The State Treasurer shall maintain a manual on the Department of the Treasury's website that sets forth the requirements, functions, duties, and

responsibilities of a notary public. The manual shall include, but not be limited to, the statutes, rules, regulations, procedures, and ethical requirements governing a notary public.

b. The manual shall specify that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The manual shall also state that a notary public who advertises the notary public's services in any language is required to provide with such advertisement a notice which contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice." The manual shall also state that no person shall be commissioned a notary public or receive a renewal of a notary public commission if that person has been convicted under the laws of this State of an offense involving dishonesty, including but not limited to a violation of section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-22), or a substantially similar crime under the laws of another state or the United States or of a crime of the second degree or above, but nothing in this paragraph shall be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.).

c. The State Treasurer shall update the information contained in the manual and the Department of the Treasury's Internet website periodically.

12. Section 9 of P.L.1979, c.460 (C.52:7-18) is amended to read as follows:

C.52:7-18 Statement by notary public after change in name; filing; evidence of continuance of powers and privileges.

9. Statement by Notary Public after Change in Name; Filing; Evidence of Continuance of Powers and Privileges.

a. If a notary public adopts a name different from that which the notary public used at the time the notary public was commissioned, before the notary public provides a signature to any record which the notary public is authorized or required to sign as notary public, the notary public shall make and sign a statement in writing and under oath, on a form prescribed and furnished by the State Treasurer, setting out the circumstances under which the notary public has adopted the new name. The statement shall state whether the new name has been adopted through marriage or civil union or

by a change of name proceeding or otherwise, and such other information as the State Treasurer shall require.

b. The statement shall be filed in the office of the State Treasurer. Such statement, or a certified copy, shall be evidence of the right of the notary public to continue to exercise the powers and privileges and perform the duties of a notary public in the changed or new name.

13. Section 10 of P.L.1979, c.460 (C.52:7-19) is amended to read as follows:

C.52:7-19 Certificate of notarial act.

10. Certificate of Notarial Act.

a. A notarial act shall be evidenced by a certificate. The certificate shall:

(1) be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notarial officer;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notarial officer; and

(5) if the notarial officer is a notary public, indicate the date of expiration of the officer's commission.

b. A certificate of a notarial act is sufficient if it meets the requirements of subsection a. of this section and:

(1) is in a short form set forth in section 21 of P.L.2021, c.179 (C.52:7-10.12);

(2) is in a form otherwise permitted by the law of this State;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer which shall meet the requirements provided in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.) and any other applicable laws of this State.

c. By executing a certificate of a notarial act, a notarial officer certifies that the officer has made the determinations specified by P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.).

d. A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

e. If a notarial act is performed regarding a tangible record, a certificate shall be part of, or attached to, the record.

f. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record.

g. If the State Treasurer has established standards pursuant to P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.) for attaching, affixing, or logically associating the certificate, the process shall conform to the standards.

C.52:7-10.5 Official stamp.

14. Official Stamp.

a. The official stamp of a notary public shall:

(1) include the name of the notary public, the title "Notary Public, State of New Jersey," and the notary public's commission expiration date; and

(2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

b. If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate near the signature of the notary public so as to be clear and readable. If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subsection a. of this section, an official stamp must be attached to or logically associated with the certificate.

C.52:7-10.6 Stamping device.

15. Stamping Device.

a. A notary public is responsible for the security of the stamping device used by the notary public and may not allow another individual to use the device to perform a notarial act, except at the specific instruction of a notary public who cannot physically use the stamping device.

b. The stamping device is the property of the notary public and not of the notary public's employer, even if the employer paid for the stamping device.

c. If the stamping device used by the notary public is lost or stolen, the notary public or the notary public's personal representative shall notify the State Treasurer of the loss or theft within 10 days.

C.52:7-10.7 Authority to perform notarial act.

16. Authority to Perform Notarial Act.

a. A notarial officer may perform a notarial act authorized by P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.), and any other applicable law.

b. A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or civil union partner is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

c. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

C.52:7-10.8 Requirements for certain notarial acts.

17. Requirements for Certain Notarial Acts.

a. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

b. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

c. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

d. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

e. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in subsection b. of N.J.S.12A:3-505.

f. For the purposes of this section:

(1) A notarial officer has personal knowledge of the identity of an individual appearing before the notarial officer if the individual is personally known to the notarial officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual by means of:

(a) A passport, driver's license, or government-issued, non-driver identification card, which is current or expired not more than three years before the performance of the notarial act; or

(b) Another form of government-issued identification, which is current or expired not more than three years before the performance of the notarial act, and which:

(i) contains the individual's signature or a photograph of the individual's face; and

(ii) is satisfactory to the notarial officer; or

(c) A verification of oath or affirmation of a credible witness personally appearing before the notarial officer or using communication technology to appear before the notarial officer pursuant to section 19 of P.L.2021, c.179 (C.52:7-10.10) and personally known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, or government-issued, non-driver identification card, which is current or expired not more than three years before the performance of the notarial act.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the identity of the individual.

C.52:7-10.9 Personal appearance; use of communication technology.

18. Personal Appearance; Use of Communication Technology.

If a notarial act relates to a statement made in, or a signature executed on, a record, the individual making the statement or executing the signature shall appear personally before the notarial officer or shall use communication technology to appear before the notarial officer pursuant to section 19 of P.L.2021, c.179 (C.52:7-10.10).

C.52:7-10.10 Notarial act performed by remotely located individual.

19. Notarial Act Performed by Remotely Located Individual.

a. As used in this section:

(1) "Communication technology" means an electronic device or process that:

(a) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(b) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(2) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(3) "Identity proofing" means a process or service by which a third person provides a notarial officer with a means to verify the identity of a

remotely located individual by a review of personal information from public or private data sources.

(4) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(5) "Remotely located individual" means an individual who is not in the physical presence of a notarial officer performing a notarial act under subsection c.

b. This section does not apply to a record to the extent it is governed by a law governing the creation and execution of wills or codicils, except that subsections e., f., g., and h. of this section shall apply to notarial acts performed on a tangible record that is governed by a law governing the creation or execution of wills and codicils.

c. A remotely located individual may comply with section 18 of P.L.2021, c.179 (C.52:7-10.9) and subsections a. and b. of R.S.46:14-2.1 by using communication technology to appear before a notarial officer.

d. A notarial officer located in this State may perform a notarial act using communication technology for a remotely located individual if:

(1) the notarial officer:

(a) has personal knowledge pursuant to paragraph (1) of subsection f. of section 17 of P.L.2021, c.179 (C.52:7-10.8) of the identity of the individual;

(b) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer pursuant to paragraph (2) of subsection f. of section 17 of P.L.2021, c.179 (C.52:7-10.8.) or using communication technology to appear before the notarial officer pursuant to this section; or

(c) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) the notarial officer is able reasonably to confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;

(3) the notarial officer, or a person acting on behalf of the notarial officer, creates an audio-visual recording of the performance of the notarial act; and

(4) for a remotely located individual who is located outside the United States:

(a) the record:

(i) is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(ii) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(b) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

e. A notarial officer in this State may use communication technology under subsection d. of this section to take an acknowledgement of a signature on a tangible record that is in the possession of the notary public if the record is displayed to and identified by the remotely located individual during the audio-visual session required by paragraph (3) of subsection d. of this section.

f. A notarial officer's obligation under paragraph (2) of subsection d. of this section for the performance of a notarial act with respect to a tangible record not physically present before the notarial officer is satisfied if:

(1) the remotely located individual:

(a) during the audio-visual session required by paragraph (3) of subsection d. of this section, signs:

(i) the record; and

(ii) a declaration, substantially in the following form, which is part of or securely attached to the record:

"I declare under penalty of perjury that the record to which this declaration is attached is the same record on which performed a notarial act and before whom I appeared by means of communication technology on [date].

_____ Printed name of remotely located individual

_____ Signature of remotely located individual"; and

(b) sends the record and declaration to the notarial officer not later than three days after the notarial act was performed; and

(2) the notarial officer:

(a) in the audio-visual recording required by paragraph (3) of subsection d. of this section, records the individual signing the record and declaration; and

(b) after receipt of the record and declaration from the individual, executes the certificate of notarial act required by section 13 of P.L.2021, c.179 (C.52:7-10.19), which must include the following statement or words of similar import:

"I [name of notarial officer] witnessed, by means of communication technology, [name of remotely located individual] sign the attached record and declaration on [date]".

g. A notarial act performed in compliance with subsection f. of this section complies with paragraph (1) of subsection a. of section 13 of P.L.2021, c.179 (C.52:7-10.19) and is effective as of the date on which the declaration was signed by the remotely located individual.

h. Subsections f. and g. of this section are not intended to exclude other procedures to satisfy the requirements of this section for a notarial act performed with respect to a tangible record.

i. A notarial officer in this State may administer an oath to a remotely located individual using communication technology. Except as required or permitted by rule or law of this State, the notarial officer shall identify the individual under paragraph (1) of subsection d. of this section, create an audio-visual recording under paragraph (3) of subsection d. of this section of the individual taking the oath, and preserve a copy of the audio-visual recording under subsection l. of this section.

j. If a notarial act is performed under this section, the certificate of notarial act required by section 10 of P.L.1979, c.460 (C.52:7-19), the certificate required by section c. of R.S.46:14-2.1, or the short-form certificate provided in section 21 of P.L.2021, c.179 (C.52:7-10.12) must indicate that the notarial act was performed using communication technology.

k. A short-form certificate provided in section 21 of P.L.2021, c.179 (C.52:7-10.12) for a notarial act subject to this section is sufficient if it:

(1) complies with any rules or regulations adopted by the State Treasurer under paragraph (1) of subsection o. of this section or section 29 of P.L.2021, c.179 (C.52:7-10.20); or

(2) is in the form provided by section 21 of P.L.2021, c.179 (C.52:7-10.12) and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

l. A notarial officer, a guardian, conservator, or agent of a notarial officer, or a personal representative of a deceased notarial officer, shall retain the audio-visual recording created under paragraph (3) of subsection d. of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by any rule or regulation adopted by the State Treasurer under paragraph (4) of subsection o. of this section, the recording must be retained for a period of at least 10 years after the recording is made.

m. Before a notary public performs the notary public's initial notarial act under this section, the notary public must notify the State Treasurer that the notary public will be performing such notarial acts and identify the technologies the notary public intends to use.

n. If the State Treasurer has established standards under subsection i. of this section and section 29 of P.L.2021, c.179 (C.52:7-10.20) for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to those standards.

o. In addition to adopting rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) under section 29 of P.L.2021, c.179 (C.52:7-10.20), the State Treasurer may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) under this section regarding the performance of a notarial act. The rules and regulations may:

(1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(2) establish standards for communication technology and identity proofing;

(3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing;

(4) establish standards and a period for the retention of an audio-visual recording created under paragraph (3) of subsection d. of this section; and

(5) prescribe methods for confirmation of a tangible record by a notarial officer permitted under subsection e. of this section.

p. Before adopting, amending, or repealing a rule or regulation governing performance of a notarial act with respect to a remotely located individual, the State Treasurer must consider:

(1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations such as the Mortgage Industry Standards Maintenance Organization and the recommendations of the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(3) the views of governmental officials and entities and other interested persons.

q. (1) A notarial officer may perform a notarial act using communication technology for a remotely located individual that meets the requirements of section 19 of P.L.2021, c.179 (C.52:7-10.10) and subsections a. and b. of R.S.46:14-2.1 regardless of whether the remotely located individual is physically located in this State.

(2) A notarial act performed using communication technology for a remotely located individual is deemed performed in New Jersey and is governed by New Jersey law.

r. It is the intent of the Legislature that, to the fullest extent allowed by the Full Faith and Credit Clause of the United States Constitution and the laws of the 50 states and the District of Columbia, a notarial act performed in this State shall be recognized, be enforceable, and have the same effect under the law of the 50 states as if performed by a notarial officer of those jurisdictions.

s. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under paragraph (3) of subsection d. of this section, the provider of the communication technology, identity proofing, or storage appoints the State Treasurer as the provider's agent for service of process in any civil action in this State related to the notarial act.

C.52:7-10.11 Signature if individual unable to sign.

20. Signature if Individual Unable to Sign.

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the record with the individual's name. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

C.52:7-10.12 Certificate form.

21. Certificate Form.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if the requirements of section 10 of P.L.1979, c.460 (C.52:7-19) are satisfied. Certificates of notarial acts are deemed sufficient for the purposes indicated if substantially all of the requirements of section 10 of P.L.1979, c.460 (C.52:7-19) and this section are satisfied:

a. For an acknowledgment in an individual capacity:

State of _____

County of _____

This record was acknowledged before me on _____ (date) by _____

(Name(s) of individual(s))

_____

Signature of notarial officer

Stamp

_____

Title of office

(My commission expires: _____)

b. For an acknowledgment in a representative capacity:

State of _____

County of _____

This record was acknowledged before me on _____ (date) by _____

(Name(s) of individual(s)

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

_____

Signature of notarial officer

Stamp

_____

Title of office

(My commission expires: _____)

c. For a verification on oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me on _____ (date) by _____

(Name(s) of individual(s) making statement)

_____

Signature of notarial officer

Stamp

[_____]

Title of office

(My commission expires: _____)

d. For witnessing or attesting a signature:

State of _____

County of _____

Signed (or attested) before me on _____(date) by _____

(Name(s) of individual(s))

_____
Signature of notarial officer

Stamp

[_____]
Title of office
(My commission expires: _____)

e. For certifying a copy of a record:

State of _____
County of _____
I certify that this is a true and correct copy of a record in the possession of _____ (name).

Dated _____

_____
Signature of notarial officer

Stamp

_____
Title of office

(My commission expires: _____)

C.52:7-10.13 Notarial act in this State.

22. Notarial Act in this State.

a. The signature and title of an individual performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

b. A notarial act may be performed in this State by an individual authorized by the applicable law to perform the notarial act.

c. The signature and title of a notarial officer authorized by the applicable law to perform the notarial act conclusively establishes the authority of the officer to perform the notarial act.

C.52:7-10.14 Notarial acts outside this state.

23. Notarial Acts Outside this State.

a. In Another State.

(1) A notarial act performed in another state has the same effect under the law of this State as if performed by a notarial officer of this State, if the act performed in that state is performed by:

(a) a notary public of that state;

(b) a judge, clerk, or deputy clerk of a court of that state; or

(c) any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subparagraph (a) or (b) of paragraph (1) of this subsection conclusively establish the authority of the officer to perform the notarial act.

b. Under Authority of Federally Recognized Indian Tribe.

(1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this State, if the act performed in the jurisdiction of the tribe is performed by:

(a) a notary public of the tribe;

(b) a judge, clerk, or deputy clerk of a court of the tribe; or

(c) any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subparagraph (a) or (b) of paragraph (1) of this subsection conclusively establish the authority of the officer to perform the notarial act.

c. Under Federal Authority.

(1) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notarial officer of this State, if the act performed under federal law is performed by:

(a) a judge, clerk, or deputy clerk of a court;

(b) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) an individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or

(d) any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subparagraph (a), (b), or (c) of paragraph (1) of this subsection conclusively establish the authority of the officer to perform the notarial act.

d. Foreign Notarial Acts.

(1) As used in this subsection, "foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notarial officer of this State.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in paragraph (3) of this subsection are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the Hague Convention conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

C.52:7-10.15 Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record.

24. Notification Regarding Performance of Notarial Act on Electronic Record; Selection of Technology; Acceptance of Tangible Copy of Electronic Record.

a. A notarial officer may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect

to an electronic record with a technology that the notarial officer has not selected.

b. Before a notary public performs the notary public's initial notarial act with respect to an electronic record, the notary public shall notify the State Treasurer that the notary public will be performing notarial acts with respect to electronic records and identify the technology that the notary public intends to use. If the State Treasurer has established standards for approval of technology pursuant to section 29 of P.L.2021, c.179 (C.52:7-10.20), the technology must conform to those standards. If the technology conforms to the standards, the State Treasurer shall approve the use of the technology.

c. A county clerk, a register of deeds and mortgages, and a county surrogate shall accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

C.52:7-10.16 Database of notaries public.

25. Database of Notaries Public.

The State Treasurer shall maintain an electronic database of current and former notaries public, including the dates that the notary public was commissioned and authorized to perform notarial acts:

a. through which a person may verify the authority of a notary public to perform notarial acts; and

b. which indicates whether a notary public has notified the State Treasurer that the notary public will be performing notarial acts on electronic records.

C.52:7-10.17 Authority to refuse to perform notarial act.

26. Authority to Refuse to Perform Notarial Act.

a. A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record;

(2) the individual's signature is knowingly and voluntarily made;

(3) the individual's signature on the record or statement substantially conforms to the signature on a form of identification used to determine the identity of the individual; or

(4) the physical appearance of the individual signing the record or statement substantially conforms to the photograph on a form of identification used to determine the identity of the individual.

b. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.).

C.52:7-10.18 Journal.

27. Journal.

a. A notary public shall maintain a journal of all notarial acts performed.

(1) The journal may be created and maintained on a tangible medium or in an electronic format.

(2) A notary public shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records.

(3) If the journal is maintained on a tangible medium, it shall be a permanent, bound register with consecutively numbered lines and consecutively numbered pages.

(4) If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with any rules and regulations promulgated by the State Treasurer.

b. For each notarial act, the notary public shall record in the journal:

(1) the date and time of the notarial act;

(2) the type of notarial act, including but not limited to the taking of an acknowledgment, the taking of a proof of a deed, the administration of an oath, or the taking of an affidavit;

(3) the name and address of each person for whom the notarial act is performed;

(4) if the identity of the individual is based on personal knowledge, a statement to that effect;

(5) if the identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including, if applicable, the type, date of issuance, and date of expiration of an identification document, or the name and signature of any identifying witness and, if applicable, the type, date of issuance, and date of expiration of a document identifying the witness; and

(6) an itemized list of all fees charged for the notarial act.

c. If a notary public's journal is lost or stolen, the notary public shall notify the State Treasurer within 10 days of the loss or theft.

d. The notary public shall either:

(1) retain the journal for 10 years after the performance of the last notarial act chronicled in the journal; or

(2) transmit the journal to the Department of the Treasury, Division of Revenue and Enterprise Services, or a repository approved by the State Treasurer.

e. On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall either:

(1) retain the journal in accordance with paragraph (1) of subsection d. of this section and inform the State Treasurer where the journal is located; or

(2) transmit the journal to the Department of the Treasury, Division of Revenue and Enterprise Services, or a repository approved by the State Treasurer.

f. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall, within 45 days, transmit it to the Department of the Treasury, Division of Revenue and Enterprise Services, or a repository approved by the State Treasurer.

g. In lieu of maintaining a journal, a notary public who is an attorney-at-law admitted to practice in this State, or who is employed by an attorney-at-law, or who is employed by or acting as an agent for a title insurance company licensed to do business in this State pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), may maintain a record of notarial acts in the form of files regularly maintained for the attorney's law practice or the title insurance company's business activities, as the case may be.

C.52:7-10.19 Validity of notarial acts.

28. Validity of Notarial Acts.

a. Except as otherwise provided in section 9 of P.L.2021, c.179 (C.52:7-10.4), the failure of a notarial officer to perform a duty or meet a requirement specified in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.), does not invalidate a notarial act performed by the notarial officer.

b. The validity of a notarial act under P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.), does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies available by law and as provided in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.).

c. P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.), shall not validate any purported notarial act performed by an individual who does not have the authority to perform notarial acts.

C.52:7-10.20 Rules and regulations.

29. Rules and Regulations.

a. The State Treasurer shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.). Any rules and regulations regarding the performance of notarial acts with respect to electronic records shall not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules and regulations may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, revoking, or otherwise limiting a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts; and

(6) provide for the administration of the examination under section 7 of P.L.2021, c.179 (C.52:7-10.3) and the course of study under section 6 of P.L.2021, c.179 (C.52:7-10.2).

b. In adopting, amending, or repealing rules and regulations concerning notarial acts with respect to electronic records, the State Treasurer shall consider, consistent with the provisions of P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.):

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the Mortgage Industry Standards Maintenance Organization and the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact the Revised Uniform Law on Notarial Acts, as embodied

in P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.); and

(3) the views of governmental officials and entities and other interested persons.

30. R.S.46:14-2.1 is amended to read as follows:

Acknowledgement and proof.

46:14-2.1. Acknowledgment and proof.

a. To acknowledge a deed or other instrument the maker of the instrument shall appear before an officer specified in R.S.46:14-6.1 or use communication technology to appear before the officer pursuant to section 19 of P.L.2021, c.179 (C.52:7-10.10.) and acknowledge that it was executed as the maker's own act. To acknowledge a deed or other instrument made on behalf of a corporation or other entity, the maker shall appear before an officer specified in R.S.46:14-6.1 and state that the maker was authorized to execute the instrument on behalf of the entity and that the maker executed the instrument as the act of the entity.

b. To prove a deed or other instrument, a subscribing witness shall appear before an officer specified in R.S.46:14-6.1 or use communication technology to appear before the officer pursuant to section 19 of P.L.2021, c.179 (C.52:7-10.10) and swear that he or she witnessed the maker of the instrument execute the instrument as the maker's own act. To prove a deed or other instrument executed on behalf of a corporation or other entity, a subscribing witness shall appear before an officer specified in R.S.46:14-6.1 or use communication technology to appear before the officer pursuant to section 19 of P.L.2021, c.179 (C.52:7-10.10) and swear that the representative was authorized to execute the instrument on behalf of the entity, and that he or she witnessed the representative execute the instrument as the act of the entity.

c. The officer taking an acknowledgment or proof shall sign a certificate stating that acknowledgment or proof. The certificate shall also state:

(1) that the maker or the witness personally appeared before the officer;

(2) that the officer was satisfied that the person who made the acknowledgment or proof was the maker of or the witness to the instrument;

(3) the jurisdiction in which the acknowledgment or proof was taken;

(4) the officer's name and title;

(5) the date on which the acknowledgment was taken.

d. The seal of the officer taking the acknowledgment or proof need not be affixed to the certificate stating that acknowledgment or proof.

e. A certificate that is substantially in the form provided in subsection b. of section 13 of P.L.2021, c.179 (C.52:7-19) satisfies the requirements of this section.

31. R.S.46:14-6.1 is amended to read as follows:

Officers authorized to take acknowledgments.

46:14-6.1. Officers authorized to take acknowledgments. a. The officers of this State authorized to take acknowledgments or proofs in this State, or in any other United States or foreign jurisdiction, are:

(1) an attorney-at-law;

(2) a notary public;

(3) a county clerk or deputy county clerk;

(4) a register of deeds and mortgages or a deputy register;

(5) a surrogate or deputy surrogate.

b. The officers authorized to take acknowledgments or proofs, in addition to those listed in subsection a., are:

(1) any officer of the United States, of a state, territory or district of the United States, or of a foreign nation authorized at the time and place of the acknowledgment or proof by the laws of that jurisdiction to take acknowledgments or proofs. If the certificate of acknowledgment or proof does not designate the officer as a justice, judge or notary, the certificate of acknowledgment or proof, or an affidavit appended to it, shall contain a statement of the officer's authority to take acknowledgments or proofs;

(2) a foreign service or consular officer or other representative of the United States to any foreign nation, within the territory of that nation.

32. N.J.S.22A:4-14 is amended to read as follows:

Acknowledgments, proof, affidavits and oaths.

22A:4-14. For administering oaths, taking affidavits, taking proofs of a deed, and taking acknowledgements, notaries public, judges and other officers authorized by law to perform such services shall receive a fee as shall be fixed by the State Treasurer by regulation.

33. R.S.41:2-17 is amended to read as follows:

Officers authorized to administer or take; jurat; certificate.

41:2-17. Officers authorized to administer or take; jurat; certificate.

Any oath, affirmation, or affidavit required or authorized to be taken in any suit or legal proceeding in this State, or for any lawful purpose whatever, except official oaths and depositions required to be taken upon notice, when taken out of this State, may be taken before any notary public of the state, territory, nation, kingdom, or country in which the same shall be taken, or before any officer who may be authorized by the laws of this State to take the acknowledgment of deeds

in such state, territory, nation, kingdom, or country; and a recital that he or she is such notary or officer in the jurat or certificate of such oath, affirmation, or affidavit, and his or her official designation annexed to his or her signature, and attested under his or her official seal, shall be sufficient proof that the person before whom the same is taken is such notary or officer.

C.52:7-10.21 Relation to electronic signatures in global and national commerce act.

34. Relation to Electronic Signatures in Global and National Commerce Act.

P.L.2021, c.179 (C.52:7-10.1 et al.) modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. s.7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

C.52:7-10.22 Savings clause.

35. Savings Clause.

P.L.1979, c.460 (C.52:7-10 et seq.), as amended and supplemented by P.L.2021, c.179 (C.52:7-10.1 et al.), shall not affect the validity or effect of any notarial act performed before the effective date of P.L.2021, c.179 (C.52:7-10.1 et al.).

36. Section 3 of P.L.2001, c.116 (C.12A:12-3) is amended to read as follows:

C.12A:12-3 Applicability of act to electronic records, signatures; exceptions.

3. a. Except as provided in subsections b. and c. of this section, this act applies to electronic records and electronic signatures relating to a transaction.

b. This act does not apply to a transaction to the extent it is governed by a law governing the creation and execution of wills, codicils or testamentary trusts.

c. This act does not apply to:

(1) court orders or notices or official court documents (including briefs, pleadings and other writings) required to be executed in connection with court proceedings;

(2) any notice of:

(a) the cancellation or termination of utility services (including water, heat and power);

(b) the default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(c) the cancellation or termination of health insurance benefits or life insurance benefits (excluding annuities); or

(d) the recall of a product, or material failure of a product, that risks endangering health or safety; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials.

d. This act applies to an electronic record or electronic signature otherwise excluded from the application of this act under subsection b. of this section to the extent it is governed by a law other than those specified in subsection b. of this section.

e. A transaction subject to this act is subject also to other applicable substantive law.

Repealer.

37. The following are repealed:

Section 7 of P.L.1979, c.460 (C.52:7-16); and

Sections 1 and 2 of P.L.1981, c.487 (C.52:7-20 and C.52:7-21).

C.52:7-10.23 Rules, regulations.

38. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer shall adopt, after notice, interim rules and regulations as shall be necessary for the implementation of this act within 90 days after the effective date of this act. The rules and regulations shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the Treasurer in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

39. Sections 6 and 7 of this act shall take effect on the 365th day following enactment. Sections 1 through 5 and sections 8 through 38 of this act shall take effect on the 90th day following enactment. The State Treasurer may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved July 22, 2021.

CHAPTER 180

AN ACT concerning alcoholic beverages and amending R.S.33:1-74.

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

1. R.S.33:1-74 is amended to read as follows:

Temporary permits; fees.

33:1-74. a. To provide for contingencies where it would be appropriate and consonant with the spirit of this chapter to issue a license but the contingency has not been expressly provided for, the director of the division may for special cause shown, subject to rules and regulations, issue temporary permits. The fee for a one-day permit authorizing the sale of alcoholic beverages for consumption on a designated premises by a civic, religious, educational or veterans organization shall be $100 and for a one-day permit authorizing such sale by any other organization, $150. The fee for any other type of temporary permit shall be determined in each case by the director of the division and shall not be less than $10 nor more than $2,000, payable to the director of the division and to be accounted for by the director as are license fees.

b. As to any designated premises such temporary permits shall not exceed in the aggregate 25 in any one calendar year, but the director of the division may by said rules and regulations provide for a lesser number in the aggregate for any such designated premises in any one calendar year. This limit shall be in the aggregate 52 in any one calendar year when the designated premises is owned by a municipality or the event is sponsored by a municipality.

c. The issuance of temporary permits to authorize the sale of alcoholic beverages by the glass or other open receptacle by civic, religious, educational, veterans or other qualified organizations shall be permissible, notwithstanding that the sale of alcoholic beverages has otherwise been prohibited by referendum under R.S.33:1-44 through R.S.33:1-47 or municipal ordinance or resolution.

2. This act shall take effect immediately.

Approved July 22, 2021.

CHAPTER 181

AN ACT concerning experiential housing advocacy programs to provide legal services for certain tenants in need of housing assistance, supplementing P.L.1996, c.52 (C.22A:2-51 et al.), and making an appropriation.

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

C.22A:2-51a Findings, declarations relative to experiential housing advocacy programs.

1. The Legislature finds and declares that:

a. The lack of affordable housing in New Jersey forces low- and moderate-income households to spend a disproportionate share of their income toward rental payments, which dynamic has resulted in an eviction crisis throughout the State.

b. The COVID-19 pandemic has heightened existing economic disparities and exacerbated the economic insecurity of many low- and moderate-income households, thereby worsening the State's eviction crisis to a critical level.

c. During the COVID-19 pandemic, a Statewide moratorium on evictions was put in place pursuant to Executive Order No. 106 and P.L.2020, c.1 (C.2A:18-59.3); however, this moratorium will soon expire, placing many low- and moderate-income households at risk of eviction.

d. It is estimated that as many as 300,000 rental households in New Jersey will become subject to an eviction proceeding after the eviction moratorium ends, which would be double the average annual number of proceedings filed before the pandemic.

e. These evictions are expected to disproportionately impact Black and Latino residents of New Jersey, as these communities account for a large percentage of the State's rental population.

f. Additionally, many landlords have increasingly filed legal actions against tenants to seek monetary relief rather than eviction, thereby putting low- and moderate-income tenants at risk of damaged credit ratings and further economic hardship.

g. The State and federal governments have established rental assistance programs to assist low- and moderate-income tenants who have been adversely affected by the COVID-19 pandemic, which programs include the COVID-19 Emergency Rental Assistance Program administered by the Department of Community Affairs.

h. However, these novel State and federal programs may be complex, making it difficult for some tenants to apply for and receive all of the benefits to which they are entitled under these programs.

i. Although these rental assistance programs may provide tenants with the means to pay some or all of their rental obligations, many tenants may still lack the ability needed to effectively negotiate with their landlords toward solutions that avert further legal proceedings.

j. Furthermore, when governmental assistance cannot prevent the filing of an eviction proceeding, the vast majority of tenants cannot afford to hire an attorney; in contrast, most landlords are represented by an attorney during these proceedings, given that many landlords are corporations, which are required to have counsel.

k. Consequently, the provision of free legal services to low- and moderate-income tenants who are in need of housing assistance, including those who are at risk of eviction and those who are entitled to governmental rental assistance, is one of the most effective ways to address the ongoing eviction crisis.

l. It is therefore in the public interest and a valid public purpose for the Legislature to appropriate monies to the Seton Hall Law School, the Rutgers Law School, Camden location, and the Rutgers Law School, Newark location, to establish experiential housing advocacy programs that provide free legal services to low- and moderate-income tenants who are in need of housing assistance.

C.22A:2-51b Annual appropriation for programs; services provided.

2. a. The Legislature shall annually appropriate monies for the Seton Hall Law School, the Rutgers Law School, Camden location, and the Rutgers Law School, Newark location, to establish experiential housing advocacy programs that provide free legal services to low- and moderate-income tenants who are in need of housing assistance. The experiential housing advocacy programs shall be implemented according to guidance issued by each law school, in consultation with any other law school that establishes the program, subject to the limitations of this section.

b. (1) The experiential housing advocacy programs shall include, but not be limited to, the provision of the following services, free of charge, to low- and moderate-income tenants:

(a) legal counsel and representation in landlord-tenant-related litigation, including, but not limited to, eviction proceedings and actions for unpaid rent;

(b) assistance applying for benefits under any State or federally funded rental assistance program, homeownership assistance program, or any other

program providing financial assistance to tenants impacted by the COVID-19 pandemic;

(c) legal counsel and assistance related to pre- and post-litigation negotiations with landlords; and

(d) any additional services that the law schools may deem appropriate to assist low- and moderate-income tenants.

(2) The experiential housing advocacy programs shall assist low- and moderate-income tenants residing throughout the State; provided, however, that the programs shall prioritize qualifying tenants who are in need of housing assistance as a result of the COVID-19 pandemic. The programs may partner with legal services organizations and community-based organizations to conduct community outreach.

(3) The law schools may designate one or more legal services organizations through which the law school may implement the experiential housing advocacy program, provided that the legal services organization shall have experience providing free legal services to low- and moderate-income tenants who are in need of housing assistance.

(4) The experiential housing advocacy programs may include pro bono components in which one or more services may be provided by volunteer students who do not receive course credit for participating in the program.

c. (1) If a law school elects to implement the experiential housing advocacy program, the law school shall designate a licensed attorney in good standing, with experience in landlord-tenant law and civil litigation matters, to supervise the program. The law school may hire such administrative staff as may be needed to support the program. To support the operations of the program, the law school may also hire:

(a) one or more licensed attorneys in good standing, with experience in landlord-tenant law and civil litigation matters; and

(b) one or more recent law school graduates who are not admitted to the New Jersey State Bar Association but who are permitted to practice law in the State pursuant to the Rules of Court, provided that each graduate shall practice under the supervision of an experienced attorney as required by those Rules.

(2) If a law school elects to implement the experiential housing advocacy program through a designated legal services organization, then subject to the availability of funds, the law school shall provide subgrants to the legal services organization to defray the costs of the program. When implementing the program, the designated legal services organization shall allow all students selected by the law school to participate in the program.

d. Before the experiential housing advocacy program may commence operations, the law school may submit an appropriate application, as required

under the Rules of Court, in order to become a certified clinical program under those rules. Alternatively, the law school may provide some or all services through an existing clinical program, which has already been certified under the Rules of Court. In either circumstance, the experiential housing advocacy program shall comply with all requirements of the Rules of Court concerning the implementation of a clinical or pro bono program and the representation of litigants by law students.

e. After the first year of operations, and each year thereafter, the Seton Hall Law School shall submit a report to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing the operations of each experiential housing advocacy program established pursuant to this section. At a minimum, the report shall indicate the number of tenants who received assistance through each program and the service provided to each tenant. The Rutgers Law School, Camden location, and the Rutgers Law School, Newark location, shall provide Seton Hall Law School with any information necessary to complete the report.

f. Nothing in this section shall be construed as requiring the Seton Hall Law School, the Rutgers Law School, Camden location, or the Rutgers Law School, Newark location, to establish or implement the experiential housing advocacy program.

3. a. (1) There is appropriated $575,000 from the General Fund to the Department of the Treasury for allocation to the Seton Hall Law School to support an experiential housing advocacy program established pursuant to section 2 of P.L.2021, c.181 (C.22A:2-51b).

(2) There is appropriated $275,000 from the General Fund to the Department of the Treasury for allocation to the Seton Hall Law School to support the preparation of training materials and the training of students and law school graduates, in collaboration with the Rutgers Law School, Camden location, and the Rutgers Law School, Newark location, selected to participate in an experiential housing advocacy program established pursuant to section 2 of P.L.2021, c.181 (C.22A:2-51b).

(3) There is appropriated $575,000 from the General Fund to the Department of the State for allocation to the Rutgers Law School, Camden location, to support an experiential housing advocacy program established pursuant to section 2 of P.L.2021, c.181 (C.22A:2-51b).

(4) There is appropriated $575,000 from the General Fund to the Department of the State for allocation to the Rutgers Law School, Newark location, to support an experiential housing advocacy program established pursuant to section 2 of P.L.2021, c.181 (C.22A:2-51b).

b. If the Seton Hall Law School, the Rutgers Law School, Camden location, or the Rutgers Law School, Newark location, does not establish an experiential housing advocacy program pursuant to section 2 of P.L.2021, c.181 (C.22A:2-51b), then the amounts hereinabove appropriated for the law school shall be transferred to the other participating law schools in equal amounts.

c. The unexpended balance of any amount appropriated pursuant to this section shall be appropriated for the same purpose during the succeeding fiscal year.

4. This act shall take effect immediately.

Approved July 22, 2021.

CHAPTER 182

AN ACT concerning certain lead-based paint hazards, and residential rental property, and establishing lead-based paint hazard programs, supplementing P.L.2003, c.311 (C.52:27D-437.1 et al.), amending various parts of the statutory law, and making an appropriation.

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

C.52:27D-437.16 Definitions relative to lead-based paint hazards.

1. a. As used in this section:

"Dust wipe sampling" means a sample collected by wiping a representative surface and tested in accordance with a method approved by the United States Department of Housing and Urban Development.

"Tenant turnover" means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

"Visual assessment" means a visual examination for deteriorated paint or visible surface dust, debris, or residue.

b. (1) Subject to subsection c. of this section, in a municipality that maintains a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, the permanent local agency shall inspect every single-family, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards or within two years of the effective date of P.L.2021, c.182

(C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section. The municipality shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection.

(2) Subject to subsection c. of this section, a municipality that does not maintain a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, the municipality shall hire a lead evaluation contractor, certified to provide lead paint inspection services by the Department of Community Affairs, to inspect every single-family, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards or within two years of the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section. The municipality shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection, including the cost of hiring the lead evaluation contractor.

(3) A municipality shall permit the dwelling owner or landlord to directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of paragraph (1) or (2) of this subsection.

(4) A permanent local agency or lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this section may consult with the local health board, the Department of Health, or the Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.

(5) Fees established pursuant to this subsection shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose.

c. Notwithstanding subsection b. of this section to the contrary, a dwelling unit in a single-family, two-family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit:

(1) has been certified to be free of lead-based paint;

(2) was constructed during or after 1978;

(3) is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.);

(4) is a single-family or two-family seasonal rental dwelling which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or

(5) has a valid lead-safe certification issued in accordance with this section.

d. (1) If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.). Upon the remediation of the lead-based paint hazard, the lead evaluation contractor or permanent local agency shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

(2) If a lead evaluation contractor or permanent local agency finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to this section or following remediation of a lead-based paint hazard pursuant to paragraph (1) of this subsection, then the lead evaluation contractor or permanent local agency shall certify the dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to section 8 of P.L.2021, c.182 (C.52:27D-437.20). The lead-safe certification provided to the property owner by the lead evaluation contractor or permanent local agency pursuant to this paragraph shall be valid for two years.

e. Beginning on the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), property owners shall:

(1) provide evidence of a valid lead-safe certification obtained pursuant to this section as well as evidence of the most recent tenant turnover at the time of the cyclical inspection carried out under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to paragraph (1), (2), or (3) of subsection c. of this section;

(2) provide evidence of a valid lead-safe certification obtained pursuant to this section to new tenants of the property at the time of tenant turnover

unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to paragraphs (1), (2), (3), and (4) of subsection c. of this section, and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and

(3) maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants, if the inspection was conducted during a period of tenancy, unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to paragraphs (1), (2), (3), and (4) of subsection c. of this section.

f. If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the lead evaluation contractor or permanent local agency shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with section 8 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.8).

g. (1) If a dwelling is located in a municipality in which less than three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the Department of Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner, then a lead evaluation contractor or permanent local agency may inspect for lead-based paint hazards through visual assessment.

(2) If a dwelling is located in a municipality in which at least three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the Department of Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner, then a lead evaluation contractor or permanent local agency shall inspect for lead-based paint hazards through dust wipe sampling.

(3) If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three- dwelling units, then the lead evaluation contractor or permanent local agency shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The lead evaluation contractor or permanent local agency may charge fees in accordance with this section for such additional inspections.

h. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this section, each municipality shall assess an additional fee of $20 per unit inspected by a certified lead evaluation contractor or permanent

local agency for the purposes of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of $20 pursuant to the provisions of section 10 of P.L. 2003, c. 311 (C.52:27D-437.10). In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit. The fees collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4).

C.52:27D-437.17 Statewide multifaceted, ongoing educational program relative to lead-based paint hazards.

2. a. The Department of Community Affairs, in consultation with the Department of Health, shall establish a Statewide, multifaceted, ongoing educational program designed to meet the needs of tenants, property owners, realtors and real estate agents, insurers and insurance agents, and local building officials about the nature of lead-based paint hazards, the importance of lead-based paint hazard control and mitigation, and the responsibilities set forth in P.L.2021, c.182 (C.52:27D-437.16 et al.). In developing and coordinating this educational program, the department shall seek the participation and involvement of private industry organizations, including those involved in real estate, insurance, mortgage banking, and pediatrics.

b. Prior to the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), the department shall:

(1) Create educational materials outlining the rights and responsibilities of parties subject to the provisions of P.L.2021, c.182 (C.52:27D-437.16 et al.).

(2) Establish guidelines and a trainer's manual for a lead-based paint hazard seminar for rental property owners or designated persons, which the department shall forward to all public and private colleges and universities in New Jersey, to other professional training facilities, and to professional associations and community organizations with a training capacity. The department shall approve proposals to offer the seminar from institutions; provided that the proposals are consistent with the guidelines. The department shall create an electronic version of the lead-based paint hazard seminar accessible on the Internet. The seminar shall be available to tenants, property owners, and other interested parties.

(3) Promulgate rules for the dissemination of information about the requirements of P.L.2021, c.182 (C.52:27D-437.16 et al.) to all prospective owners of pre-1978 dwellings during the real estate transaction, settlement, or closing.

(4) Solicit requests to enter into ongoing, funded partnerships to provide specific counseling information services to tenants and affected parties on their rights and responsibilities with regard to lead-based paint hazards and lead poisoning.

c. The lead-based paint hazard seminar established pursuant to this section shall not exceed three hours in length. The department shall offer the seminar for a maximum fee of $50 per participant.

C.52:27D-437.18 Disclosure requirement prohibition for application for lead remediation funding.

3. In association with an application for lead remediation funding provided pursuant to the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4), or any other program administered for lead remediation purposes by the Department of Community Affairs, the department shall not request or require that a property owner disclose the social security number of any person renting the property or otherwise associated with the inspected property other than the property owner. This disclosure requirement prohibition shall apply to an application for assistance, funded and administered by the State, for lead remediation purposes.

C.52:27D-437.19 Investigations of complaint; penalties.

4. a. Upon the filing of a complaint with the department or of the commissioner's own accord, the commissioner shall be authorized to conduct investigations and issue penalties against a municipality for its failure to comply with subsection b. of section 1 of P.L.2021, c.182 (C.52:27D-437.16).

b. A municipality or its permanent local agency shall be authorized to conduct investigations and issue penalties not inconsistent with this subsection to enforce a property owner's failure to comply with paragraph (1) of subsection d. of section 1, or subsection e. of section 1 of P.L.2021, c.182 (C.52:27D-437.16). If the municipality or permanent local agency determines that a property owner has failed to comply with a provision of P.L.2021, c.182 (C.52:27D-437.16 et al.) with respect to a rental dwelling unit owned by the property owner, the property owner shall first be given 30 days to cure any violation by conducting the required inspection or initiate any required remediation efforts. If the property owner has not cured the violation after 30 days, the property owner shall be subject to a penalty not to exceed $1,000 per week until the required inspection has been conducted or remediation efforts have been initiated.

5. Section 5 of P.L.1995, c.328 (C.26:2-137.6) is amended to read as follows:

C.26:2-137.6 Central database maintained; confidentiality.

5. a. The department shall maintain a central database which shall include a record of all lead screening conducted pursuant to this act. The database shall include the name, age and address of the child screened and any other demographic data the department deems necessary. The database shall be geographically indexed, by municipality, in order to determine the location of areas of relatively high incidence of lead poisoning.

b. The information reported to and compiled by the department pursuant to this act is to be used only by the department and such other agencies as may be designated by the commissioner and shall not otherwise be divulged or made public so as to disclose the identity of any child to whom it relates without written parental consent; and to that end, the information shall not be included under materials available to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The department may, however, make such statistical reports available using information compiled from the database if the name or other identifying information of the child screened is not revealed and in accordance with all other federal and State laws regarding the protection of medical information.

6. Section 1 of P.L.2007, c.251 (C.55:13A-12.2) is amended to read as follows:

C.55:13A-12.2 Lead paint inspection requirements for single and two-family rental dwellings.

1. a. The commissioner shall inspect every single-family and two-family rental dwelling in accordance with the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), at least once every five years for lead-based paint hazards and shall charge a fee sufficient to cover the cost of such inspection; provided, however, that the fee shall not exceed one-third of the inspection fee for a three-unit multiple dwelling, established pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), for each unit inspected.

b. Notwithstanding any other provisions of P.L.2007, c.251 (C.55:13A-12.2 et al.) to the contrary, a dwelling unit in a single-family or two-family dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards, or for the fees for such inspection or evaluation, if the unit:

(1) has been certified to be free of lead-based paint;

(2) was constructed during or after 1978; or

(3) is a seasonal rental unit which is rented for less than six months' duration each year; or

(4) has a valid lead-safe certification issued in accordance with section 1 of P.L.2021, c.182 (C.52:27D-437.16).

c. The commissioner shall have the power to enforce the corrections of any violations found pursuant to a lead-based paint hazard inspection conducted pursuant to this section as if the rental unit were in a multiple dwelling subject to the requirements of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

7. Section 5 of P.L.2003, c.311 (C.52:27D-437.5) is amended to read as follows:

C.52:27D-437.5 Grants, loans.

5. a. The department is hereby authorized to provide financial assistance in the form of grants or loans, or a combination thereof, with moneys available from the fund to eligible owners of multifamily housing and to eligible owners of single-family and two-family homes, whether or not utilized as rental housing, for lead hazard control work, in compliance with the terms of P.L.2003, c.311 (C.52:27D-437.1 et al.) and subject to the conditions set forth in this section. "Eligible owner" shall mean an owner who provides proof to the satisfaction of the department of the presence of a lead-based paint hazard on the owner's property.

b. Financial assistance in the form of a loan may be provided to an eligible owner of multifamily housing, a single-family home or a two-family home based on the owner's ability to repay the loan as determined by the department.

c. Financial assistance shall be provided for a period to be determined by the department.

d. The department may provide financial assistance, upon application therefor, for up to 100% of the costs of lead hazard control work, including associated lead evaluation costs, and for temporary relocation assistance, except that no award of financial assistance for a dwelling unit may exceed $150,000.

e. Financial assistance provided in the form of a loan shall be secured by a lien upon the real property on which the lead hazard control work is performed, with respect to which the financial assistance is made and other such collateral as the department may consider necessary to secure the interests of the fund in accordance with the provisions and purposes of P.L.2003, c.311 (C.52:27D-437.1 et al.). The department may, if it deems

necessary, require the financial assistance to be secured by a personal loan guarantee by the owner of the property or by a lien upon other real property belonging to the person to whom the loan is made. The department may authorize a loan in conjunction with an award of a grant for a partial or the total amount of the costs of lead hazard control work.

f. The department shall establish a program to provide the grants authorized pursuant to this section, including grants to remediate lead-based paint hazards identified by a permanent local agency or lead evaluation contractor during an inspection conducted pursuant to P.L.2021, c.182 (C.52:27D-437.16 et al.). Grants shall not be made available to owners of multiple dwellings comprising more than four separate dwelling units. Priority shall not be granted to any applicant on the basis of the location of the housing. Priority may be given, however, to those residences in which children under the age of six reside, as well as for remediation for lead-based paint hazards identified by a permanent local agency or lead evaluation contractor during an inspection conducted pursuant to P.L.2021, c.182 (C.52:27D-437.16 et al.). The department may award the grants on a pro-rata basis to the applicants, if there is an insufficient amount in the fund to award grants for the full amount of the projected cost of the lead hazard control work.

C.52:27D-437.20 Rules, regulations.

8. a. The Commissioner of Community Affairs, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the provisions of P.L.2021, c.182 (C.52:27D-437.16 et al.). Additionally, as soon as possible following the enactment of P.L.2021, c.182 (C.52:27D-437.16 et al.), the commissioner shall take steps necessary to ensure that municipal officials are informed of the responsibilities of municipalities established by P.L.2021, c.182 (C.52:27D-437.16 et al.).

b. Notwithstanding the limitations established in section 1 of P.L. 2011, c.215 (C.52:14B-3a) on the use of regulatory guidance documents, the commissioner shall prepare and disseminate regulatory guidance documents as defined in subsection d. of section 1 of P.L. 2011, c.215 (C.52:14B-3a), in advance of the adoption of regulations as necessary for the administration of P.L.2021, c.182 (C.52:27D-437.16 et al.), for purposes including but not limited to: (1) providing guidance on the procedures required for lead inspection and remediation, and (2) the existing certifications, or educational requirements, that shall qualify a person as a lead evaluation contractor.

9. There is appropriated from the General Fund to the Department of Community Affairs the sum of $3,900,000 to effectuate the purposes of P.L.2021, c.182 (C.52:27D-437.16 et al.).

10. This act shall take effect one year following enactment, but the department and municipalities are authorized to take any anticipatory actions necessary to prepare for the implementation of the provisions of this act.

Approved July 22, 2021.

CHAPTER 183

AN ACT concerning the replacement of lead service lines and supplementing Title 58 of the Revised Statutes.

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

C.58:12A-40 Findings relative to presence of lead in drinking water.

1. The Legislature finds that the presence of lead in drinking water represents a threat to the public health, especially the health and development of New Jersey's children; that pipes containing lead that connect water mains to homes and other buildings, often called lead service lines, are a primary source of lead in drinking water; and that, due in part to the age of New Jersey's housing, there does not exist a full and complete inventory of all lead service lines in the State.

The Legislature therefore declares that public water systems should fully inventory all service lines and gradually replace all lead service lines, portions of which may exist on private property; and that, given the risk to public health and the resulting social costs that lead exposure imposes upon society as a whole, it is in the public interest that each public water system be obligated to replace lead service lines, including those that exist on private property, and be authorized to recoup the costs of lead service line replacements from all subscribers of the public water system.

C.58:12A-41 Definitions relative to presence of lead in drinking water.

2. As used in this act:

"Board" means the Board of Public Utilities or any successor agency.

"Customer" means a property owner or lessee who receives, and is required to pay, a water utility bill for water being supplied to the property.

"Distributed System Improvement Charge" means a surcharge that is imposed by an investor-owned public community water system on its customers, with the approval of the board, to enable the system to recoup the costs of non-revenue producing infrastructure improvements outside the context of a base rate case.

"Gooseneck, pigtail, or connector" means the short section of flexible piping, usually one to two feet long, which is used to connect rigid sections of service line piping.

"Government-owned public community water system" means a public community water system established, pursuant to law, by a political subdivision of this State or an agency or instrumentality of one or more thereof.

"Investor-owned public community water system" means a public community water system that is a public utility, as defined in R.S.48:2-13, and which is subject to the jurisdiction of the board pursuant to Title 48 of the Revised Statutes.

"Lead service line" means a water supply connection that is made of, or lined with, a material consisting of lead, and which connects a water main to a building inlet. A lead pigtail, lead gooseneck, or other lead fitting shall be considered to be a lead service line, regardless of the composition of the service line or other portions of piping to which such piece is attached. A galvanized service line shall be considered to be a lead service line. A lead service line may be owned by the public community water system, a property owner, or both.

"Non-paying consumer" means the lessee or primary occupant of institutional, commercial, or residential space in a system's service area, who does not receive, and is not required to pay, a water utility bill for water supplied to the property.

"Off-site owner" means the owner of residential, commercial, or institutional property located within the service area of a public community water system, who resides at another property, outside the service area, and who does not receive, and is not required to pay, a water utility bill for water being supplied to the owner's property in the service area.

"Partial replacement" means the act of replacing any service line component without replacing the entire service line.

"Property owner" means the owner of residential, commercial, or educational institution property located within the service area of a public community water system.

"Property-owner side" means the portion of a service line that is owned by a property owner.

"Public community water system" or "system" means a public water system or the owner of a public water system, as that term is defined by section 3 of P.L.1977, c.224 (C.58:12A-3), which system either: has at least 15 service connections that are used by year-round residents; or regularly serves at least 25 year-round residents. "Public community water system" includes an investor-owned public community water system.

"Service line" means any piping, tubing, and fittings connecting a water main to a building that serves a customer of a public water system. "Service line" includes the property-owner side and the system side of a service line.

"System side" means the portion of a service line that is owned by a public community water system.

C.58:12A-42 Service line inventory.

3. a. Each public community water system in the State shall develop a service line inventory, in accordance with the requirements of this section, in order to determine the existence or absence of a lead service line at each service connection in its service area. The service line inventory shall include information about service line locations and the composition of service lines at each location. The department may prescribe data management means and methods to provide for the receipt of uniform submissions of the service line inventory by public community water systems.

b. No later than 60 days after the effective date of this act, a public community water system shall compile and submit, to the department, an initial count showing the number of lead service lines and the number of service lines of unknown composition that are known to be present in the system's service area, as well as the number of lead service lines that are to be replaced annually, based on the replacement rate established pursuant to paragraph (1) of subsection b. of section 5 of this act.

c. No later than six months after the effective date of this act, a public community water system shall submit to the department an initial service line inventory. The inventory shall include:

(1) the locations of all identified lead service lines;

(2) an indication as to whether each identified lead service line is completely composed of lead or otherwise meets the definition of a lead service line;

(3) the location of each service line that is suspected to be lead;

(4) for each identified and suspected lead service line, an indication as to whether the line is owned by the public community water system, the property owner, or both;

(5) the locations and compositions of all non-lead service lines; and

(6) a separate list identifying all service lines of unknown composition.

d. The public community water system shall use historical building records and other available information, including data from the American Water Works Association or other industry research groups, to determine the likelihood of the presence of lead service lines in all portions of its service area, as provided by this section.

e. Following the submission of the initial service line inventory pursuant to subsection c. of this section, each public community water system in the State shall continue the inventory process and utilize every reasonable method available to locate all lead service lines within its service area. This process shall include, but shall not be limited to:

(1) visual inspection during planned maintenance, meter replacement, and main replacement projects; and

(2) the solicitation and receipt of comments, complaints, and other input from customers and non-paying consumers in the service area.

f. (1) No later than one year after the effective date of this act, a public community water system shall submit, to the department, an updated inventory of service lines in its service area. The updated inventory shall contain the information required by subsection c. of this section, and shall additionally include:

(a) for each service line suspected of containing lead, supporting information detailing the reasons why each such service line is believed to contain lead; and

(b) for each service line identified as being of unknown composition, a description detailing the steps undertaken to determine whether the line contains lead.

(2) The public community water system shall keep the department informed of its progress pursuant to this subsection, through the annual reports submitted pursuant to the provisions of section 7 of this act. If a public community water system exhausts all other methods of identifying a service line, including the use of new technologies that become available, the department may require excavation, as necessary, to identify the service line.

g. Beginning two years after the effective date of this act, and until such time as all lead service lines have been replaced in accordance with this act, a public community water system shall annually submit to the department:

(1) an updated service line inventory that meets the requirements of subsection f. of this section; and

(2) a statement certifying that the public community water system is in compliance with the provisions of this act.

h. A public community water system shall provide its most recent service line inventory, upon request and at no cost, to appropriate State officials or to the local government officials of a municipality served by the public community water system. A public community water system shall make its most recent service line inventory available on its Internet website. For public community water systems serving fewer than 3,300 customers, whenever an Internet website is not available, the public community water system shall make its most recent service line inventory available in another publicly accessible location.

C.58:12A-43 Written notice of composition of service line.

4. a. No later than 30 days after submitting an initial service line inventory to the department pursuant to subsection c. of section 3 of this act, and periodically thereafter as the department may require, a public community water system shall send, to each customer and non-paying consumer served by a lead service line in the service area, and to any off-site owner of property served by a lead service line in the service area, written notice of the composition of the service line.

b. A notice provided pursuant to this section shall:

(1) be sent, by certified mail, to each residential, commercial, or institutional address affected by the known lead service line and addressed to the primary resident or commercial or institutional occupant thereof, as appropriate. Notice shall be sent to all affected addresses, as provided in this paragraph, regardless of whether the resident or occupant is a system customer or is a non-paying consumer;

(2) be sent, by certified mail, to each off-site owner of property affected by the known lead service line and addressed to the property owner's last known address, as determined through the review of local property tax and other available records;

(3) be included in a mailing that is separate and distinct from the water bill that is issued for the property. The notice shall contain large, easily readable text and be presented on distinctly colored paper or other paper that is easily distinguishable from the water billing statement; and

(4) include, at a minimum: (a) a list of the lead service lines that are being used to serve the customer or non-paying consumer; (b) information describing the sources of lead in drinking water, including lead service lines

and household plumbing; (c) a description of the health effects of lead exposure; and (d) the steps that system customers and non-paying consumers in the service area can take to reduce their exposure to lead in drinking water.

c. If the recipient of notice provided pursuant to this section is the owner or operator of an apartment building, group home, or other multi-family or multi-unit dwelling, such owner or operator shall provide a hard copy of the notice to each existing resident of the multi-family or multi-unit dwelling and shall additionally post a copy of the notice in a conspicuous location in a common area of the dwelling. The owner or operator shall also inform each new resident of the multi-family or multi-unit dwelling, prior to their residence, about the existence of the lead service line, and shall provide each new resident with a hard copy of the notice received pursuant to this section, upon the commencement of their residence. A notice posted in a common area of a multi-family or multi-unit dwelling, pursuant to this subsection, may be removed only after all of the lead service lines identified in the notice have been replaced and determined to be non-lead service lines.

d. If a public community water system serves a municipality in which the primary language of 10 percent or more of the residents is a language other than English, the public community water system shall provide the notice required pursuant to subsection a. of this section in both English and the other language spoken by residents.

C.52:12A-44 Submission of initial plan for replacing all lead service lines.

5. a. No later than 12 months after the effective date of this act, each public community water system shall submit, to the department, an initial plan for replacing all lead service lines within its service area. The plan shall be annually updated to be consistent with the annual updates to the system's service line inventory, which are required pursuant to section 3 of this act, and shall remain in effect until all lead services lines within the system's service area have been identified and replaced.

b. Each lead service line replacement plan and annual update thereto shall:

(1) provide for the average annual replacement of at least 10 percent of all lead service lines that were known to, and identified by, the public community water system on the date it submitted its initial service line replacement plan to the department, pursuant to subsection a. of this section;

(2) provide for the replacement of all lead service lines within the system's service area, no later than 10 years after the effective date of this act, regardless of whether the lines were known or unknown to the public community water system on the date that it submitted its initial plan to the department pursuant to subsection a. of this section. Each public community

water system in the State shall be encouraged to complete the replacement of all lead service lines in its service area within 10 years after the effective date of this act, as provided in the system's lead service line replacement plan; however, notwithstanding the provisions of this paragraph to the contrary, the public community water system shall be authorized to continue lead service line replacement activities for a maximum period of 15 years if necessary to enable the system to fully comply with the provisions of this act;

(3) include a plan for notifying consumers of health effects and steps they may take to reduce their exposure to lead before and after any lead service line replacement; and

(4) include any other information or certifications required by the department.

c. (1) Except during an emergency, such as a water main or service line break, or during a water main replacement, a public community water system shall not conduct a partial replacement of a lead service line. In all instances, the public community water system shall make a good faith effort to replace the entire lead service line and shall conduct a partial replacement only as a last resort. A partial replacement of a lead service line shall not count toward the public community water system's replacement requirements pursuant to subsection b. of this section.

(2) A public community water system shall not suspend the water service of a customer solely because of a denial of access to the property owner-side of a lead service line for the replacement of a lead service line pursuant to this act.

d. (1) A public community water system may apply for, and the department may approve, a reasonable extension of any target or deadline set forth in this section if the public community water system demonstrates to the department that the extension is necessary to meet a service reliability demand or public health need, not related to lead abatement, within the system.

(2) A government entity that owns a public community water system may apply for, and the department, in consultation with the Division of Local Government Services in the Department of Community Affairs, may approve, a reasonable extension of any target or deadline set forth in this section if the government-owned system demonstrates to the department that the extension is necessary because the system or the municipality is experiencing financial distress.

e. Notwithstanding the provisions of R.S.40:56-1 to the contrary, any costs incurred by a government-owned public community water system to

assess or replace a lead service line pursuant to this act, excluding any portion funded by grants or other subsidies, may be borne by all of the customers of the government-owned public water system or may be assessed to a property of a property owner in the same manner as provided for the assessment of local improvements, pursuant to R.S.40:56-1 et seq., upon notice to the Director of the Division of Local Government Services in the Department of Community Affairs.

C.58:12A-45 Bearing of project costs.

6. a. Notwithstanding the provisions of any law, rule, regulation, or order to the contrary, 100 percent of the costs associated with undertaking and funding the replacement of lead service lines pursuant to this act, excluding any portion funded by grants or other subsidies, shall be borne by all of the customers, in the State, of an investor-owned public community water system and shall be included in the investor-owned public community water system's rate base or otherwise be recoverable from the system's customers, in a manner determined by the board. In making a determination under this subsection, the board shall stipulate that:

(1) the proportionate share of project costs for the replacement of the system side of a lead service line may be incorporated into the rate base as capital assets of the investor-owned public community water system or may be recovered through the use of a Distributed System Improvement Charge as allowed under existing law; and

(2) the proportionate share of project costs for the replacement of the property-owner side of a lead service line, including the investor-owned public community water system's embedded cost of debt, as authorized in its most recent base rate case, shall be treated as an operation and maintenance cost, with no cost of equity additive. Costs for the replacement of property-owner side lead service lines incurred since the investor-owned public community water system's last base rate case and incurred until all property-owner side lead service lines have been eliminated from the investor-owned public community water system shall be recoverable on a semi-annual basis through a separate lead service line expense surcharge and not imbedded into base rates.

b. In order to recoup the costs of lead service line replacements from its customers, as provided by subsection a. of this section, an investor-owned public community water system shall submit to the board, for approval at its next general rate case proceeding, a petition that includes a proposal for cost recoupment. The proposal shall contain the following information:

(1) the estimated total cost to replace both the property-owner side and the system side of all lead service lines that lie within, or are connected to, the system's service area, including, but not limited to, the estimated total cost to evaluate service lines of unknown composition and to replace both the property-owner side and system side of any such lines that are determined to be lead service lines, and an estimated range for the annual cost to be incurred by the system under the system's current lead service line replacement plan;

(2) the availability of grants or low interest loans and whether the investor-owned public community water system plans to use available grants or low interest loans to help the system finance or reduce lead service line replacement costs, including a detailed description of any efforts made by the system to secure such financing;

(3) the investor-owned public community water system's proposed rate treatment of the replacement costs, including:

(a) any proposed deferred accounting treatment of the costs;

(b) the proposed rate base treatment of the costs, and whether and how the system is planning to effectuate system side cost recoupment through the use of a Distributed System Improvement Charge or alternate recoupment methodology approved by the board;

(c) the proposed operations and maintenance expense treatment of the costs; and

(d) the average monthly residential bill impact of the proposed rate treatment of the costs;

(4) a description of how the replacement of lead service lines will be accomplished in conjunction with other replacement projects in the system's service area;

(5) the estimated savings, per lead service line, that will be achieved by requiring the investor-owned public community water system, and not the property owner, to replace the property-owner sides of lead service lines in the service area; and

(6) the means and methods that will be used by the system to:

(a) inform all system customers and non-paying consumers in the system's service area about the system's lead service line replacement plan; and

(b) document each customer's consent, or lack of consent, to the replacement of a lead service line.

c. Before an investor-owned public community water system may be authorized by the board to recoup the costs of lead service line replacements from its customers, pursuant to this section, the board shall ensure that the department has received the system's inventory, as required by section 3 of this act.

C.58:12A-46 Report detailing progress in replacing lead service lines.

7. No later than December 31 of each year, a public community water system shall submit to the department, in a form and manner to be determined by the department, a report detailing the public community water system's progress in replacing lead service lines pursuant to this act. A public community water system shall make its report available on its Internet website. If an Internet website is not available, the public community water system shall make its report available in another publicly accessible location. If the department determines, based on the information provided by the public community water system pursuant to this section, that the system has completed the replacement of all lead service lines within the system's service area, the system shall no longer be required to submit a report pursuant to this section.

C.58:12A-47 Rules, regulations.

8. a. The Department of Environmental Protection may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

b. The Board of Public Utilities may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

c. The Department of Environmental Protection and the Board of Public Utilities shall consult with one another and with the Division of Local Government Services in the Department of Community Affairs when adopting rules and regulations pursuant to this section.

9. This act shall take effect immediately.

Approved July 22, 2021.

CHAPTER 184

AN ACT concerning the financing and operation of water systems, supplementing Title 40A of the New Jersey Statutes, and amending various parts of the statutory law.

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

1. Section 3 of P.L.1957, c.183 (C.40:14B-3) is amended to read as follows:

C.40:14B-3 Definitions.

3. As used in P.L.1957, c.183 (C.40:14B-1 et seq.), unless a different meaning clearly appears from the context:

(1) "Municipality" shall mean any city of any class, any borough, village, town, township, or any other municipality other than a county or a school district, and except when used in section 4, 5, 6, 11, 12, 13, 42 or 45 of P.L.1957, c.183 (C.40:14B-4, C.40:14B-5, C.40:14B-6, C.40:14B-11, C.40:14B-12, C.40:14B-13, C.40:14B-42, or C.40:14B-45), any agency thereof or any two or more thereof acting jointly or any joint meeting or other agency of any two or more thereof;

(2) "County" shall mean any county of any class;

(3) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of those counties organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the board of chosen freeholders and the county executive, the county supervisor or the county manager, as appropriate, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(4) "Person" shall mean any person, association, corporation, nation, state or any agency or subdivision thereof, other than a county or municipality of the State or a municipal authority;

(5) "Municipal authority," "authority," or "water reclamation authority" shall mean a public body created or organized pursuant to section 4, 5 or 6 of P.L.1957, c.183 (C.40:14B-4, C.40:14B-5, or C.40:14B-6) and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county;

(6) Subject to the exceptions provided in section 10, 11 or 12 of P.L.1957, c.183 (C.40:14B-10, C.40:14B-11, or C.40:14B-12), "district" shall mean the area within the territorial boundaries of the county, or of the municipality or municipalities, which created or joined in or caused the creation or organization of a municipal authority;

(7) "Local unit" shall mean the county, or any municipality, which created or joined in or caused the creation or organization of a municipal authority;

(8) "Water system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose for the purposes of the municipal authority, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution

systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or division, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply and redistribution of water.

The term "water system" shall include the replacement of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into a privately-owned structure, when used in reference to a project undertaken for the purpose of replacing residential, commercial, and institutional lead service lines, regardless of possible private service connection ownership;

(9) "Sewerage system" shall mean the plants, structures, on-site wastewater systems and other real and personal property acquired, constructed or operated or to be acquired, constructed, maintained or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose for the purposes of the municipal authority, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, outfalls, compensating reservoirs, and other plants, structures, boats, conveyances and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes;

(10) "Utility system" shall mean a water system, solid waste system, sewerage system, or a hydroelectric system or any combination of such systems, acquired, constructed or operated or to be acquired, constructed or operated by a municipal authority or by any person to whom a municipal authority has extended credit for this purpose;

(11) "Cost" shall mean, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a utility system and of all or any property, rights, easements, privileges, agreements and franchises deemed by the municipal authority to be necessary or useful and convenient therefor or in connection therewith and the cost of retiring the present value of the unfunded accrued liability due and owing by a municipal authority, as calculated by the system actuary for a date certain upon the request of a municipal authority, for early retirement incentive benefits granted by the municipal authority pursuant to P.L.1991, c.230 and P.L.1993, c.181, including interest or discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the municipal authority prior to and during

such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of said utility system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the municipal authority may determine, and also reimbursements to the municipal authority or any county, municipality or other person of any moneys theretofore expended for the purposes of the municipal authority or to any county or municipality of any moneys theretofore expended for or in connection with water supply, solid waste, water distribution, sanitation or hydroelectric facilities;

(12) "Real property" shall mean lands both within or without the State, and improvements thereof or thereon, or any rights or interests therein;

(13) "Construct" and "construction" shall connote and include acts of construction, reconstruction, replacement, extension, improvement and betterment of a utility system;

(14) "Industrial wastes" shall mean liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource, and shall include any chemical wastes or hazardous wastes;

(15) "Sewage" shall mean the water-carried wastes created in and carried, or to be carried, away from, or to be processed by on-site wastewater systems, residences, hotels, apartments, schools, hospitals, industrial establishments, or any other public or private building, together with such surface or ground water and industrial wastes and leachate as may be present;

(16) "On-site wastewater system" means any of several facilities, septic tanks or other devices, used to collect, treat, reclaim, or dispose of wastewater or sewage on or adjacent to the property on which the wastewater or sewage is produced, or to convey such wastewater or sewage from said property to such facilities as the authority may establish for its disposal;

(17) "Pollution" means the condition of water resulting from the introduction therein of substances of a kind and in quantities rendering it detrimental or immediately or potentially dangerous to the public health, or unfit for public or commercial use;

(18) "Bonds" shall mean bonds or other obligations issued pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.);

(19) "Service charges" shall mean water service charges, solid waste service charges, sewer service charges, hydroelectric service charges or any combination of such charges, as said terms are defined in section 21 or 22 of

P.L.1957, c.183 (C.40:14B-21 or C.40:14B-22) or in section 7 of P.L.1980, c.34 (C.40:14B-21.1);

(20) "Compensating reservoir" shall mean the structures, facilities and appurtenances for the impounding, transportation and release of water for the replenishment in periods of drought or at other necessary times of all or a part of waters in or bordering the State diverted into a utility system operated by a municipal authority;

(21) "Sewage or water reclamation authority" shall mean a public body created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) or the acts amendatory thereof or supplemental thereto;

(22) "County sewer authority" shall mean a sanitary sewer district authority created pursuant to the act entitled "An act relating to the establishment of sewerage districts in first- and second-class counties, the creation of Sanitary Sewer District Authorities by the establishing of such districts, prescribing the powers and duties of any such authority and of other public bodies in connection with the construction of sewers and sewage disposal facilities in any such district, and providing the ways and means for paying the costs of construction and operation thereof," approved April 23, 1946 (P.L.1946, c.123), or the acts amendatory thereof or supplemental thereto;

(23) "Chemical waste" shall mean a material normally generated by or used in chemical, petrochemical, plastic, pharmaceutical, biochemical or microbiological manufacturing processes or petroleum refining processes, which has been selected for waste disposal and which is known to hydrolize, ionize or decompose, which is soluble, burns or oxidizes, or which may react with any of the waste materials which are introduced into the landfill, or which is buoyant on water, or which has a viscosity less than that of water or which produces a foul odor. Chemical waste may be either hazardous or nonhazardous;

(24) "Effluent" shall mean liquids which are treated in and discharged by sewage treatment plants;

(25) "Hazardous wastes" shall mean any waste or combination of waste which poses a present or potential threat to human health, living organisms or the environment. "Hazardous waste" shall include, but not be limited to, waste material that is toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable;

(26) "Leachate" shall mean a liquid that has been in contact with solid waste and contains dissolved or suspended materials from that solid waste;

(27) "Recycling" shall mean the separation, collection, processing or recovery of metals, glass, paper, solid waste and other materials for reuse or for energy production and shall include resource recovery;

(28) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects; "sludge" shall not include effluent;

(29) "Solid waste" shall mean garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(30) "Solid waste system" shall mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an authority or by any person to whom a municipal authority has extended credit for this purpose pursuant to the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.), including transfer stations, incinerators, recycling facilities, including facilities for the generation, transmission and distribution of energy derived from the processing of solid waste, sanitary landfill facilities or other property or plants for the collection, recycling or disposal of solid waste and all vehicles, equipment and other real and personal property and rights thereon and appurtenances necessary or useful and convenient for the collection, recycling, or disposal of solid waste in a sanitary manner;

(31) "Hydroelectric system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by an authority pursuant to the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.), including all that which is necessary or useful and convenient for the generation, transmission and sale of hydroelectric power at wholesale;

(32) "Hydroelectric power" shall mean the production of electric current by the energy of moving water;

(33) "Sale of hydroelectric power at wholesale" shall mean any sale of hydroelectric power to any person for purposes of resale of such power;

(34) "Alternative electrical energy" shall mean electrical energy produced from solar, photovoltaic, wind, geothermal, or biomass technologies, provided that in the case of biomass technology, the biomass is cultivated and harvested in a sustainable manner;

(35) "Alternative electrical energy system" shall mean any system which uses alternative electrical energy to provide all or a portion of the electricity for the heating, cooling, or general electrical energy needs of a building;

(36) "Pilot county" shall mean a county of the second class having a population between 280,000 and 290,000, a population between 510,000 and 520,000, and a population between 530,000 and 540,000 according to the 2010 federal decennial census;

(37) "Pilot county utilities authority" shall mean a county utilities authority in a county designated as a pilot county;

(38) "Lead service line" means a water supply connection that is made of, or lined with, a material consisting of lead, and which connects a water main to a building inlet. A lead pigtail, lead gooseneck, or other lead fitting shall be considered to be a lead service line, regardless of the composition of the service line or other portions of piping to which such piece is attached. A galvanized service line shall be considered to be a lead service line. A lead service line may be owned by the public community water system, a property owner, or both.

2. Section 20 of P.L.1957, c.183 (C.40:14B-20) is amended to read as follows:

C.40:14B-20 Powers.

20. Every municipal authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public health and welfare and shall have perpetual succession and have the following powers:

(1) To adopt and have a common seal and to alter the same at pleasure;

(2) To sue and be sued;

(3) In the name of the municipal authority and on its behalf, to acquire, hold, use and dispose of its service charges and other revenues and other moneys;

(4) In the name of the municipal authority but for the local unit or units, to acquire, rent, hold, lease as lessor, use and dispose of other personal property for the purposes of the municipal authority;

(5) In the name of the municipal authority but for the local unit or units and subject to the limitations of P.L.1957, c.183 (C.40:14B-1 et seq.), to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements therein, necessary or useful and convenient for the purposes of the municipal authority, and subject to mortgages, deeds of trust or other liens, or otherwise, and to hold, lease as lessor, and to use the same,

and to dispose of property so acquired no longer necessary for the purposes of the municipal authority;

(6) To produce, develop, purchase, accumulate, distribute and sell water and water services, facilities and products within or without the district, provided that no water shall be sold at retail in any municipality or county without the district unless the governing body of such municipality or county shall have adopted a resolution requesting the municipal authority to sell water at retail in such municipality or county, and the board of public utility commissioners shall have approved such resolution as necessary and proper for the public convenience;

(7) To provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(8) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the municipal or county authority, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(9) To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the municipal authority, and whenever the operation of a septic tank or other component of an on-site wastewater system shall result in the creation of pollution or contamination source on private property such that under the provisions of R.S.26:3-49, a local board of health would have the authority to notify the owner and require said owner to abate the same, representatives of an authority shall have the power to enter, at all reasonable times, any premises on which such pollution or contamination source shall exist, for the purpose of inspecting, rehabilitating, securing samples of any discharges, improving, repairing, replacing, or upgrading such septic tank or other component of an on-site wastewater system;

(10) To establish an inspection program to be performed at least once every three years on all on-site wastewater systems installed within the district which inspection program shall contain the following minimum notice provisions: (i) not less than 30 days prior to the date of the inspection of any on-site wastewater system as described herein, the authority shall notify the owner and resident of the property that the inspection will occur; and (ii) not less than 60 days prior to the date of the performance of any work other than an inspection, the municipal authority shall provide notice to the owner and resident of the property in which the work will be performed. The notice to be provided to such owner and resident under this subsection shall include a description of the deficiency which

necessitates the work and the proposed remedial action, and the proposed date for beginning and duration of the contemplated remedial action;

(11) To prepare and file in the office of the municipal authority records of all inspections, rehabilitation, maintenance, and work, performed with respect to on-site wastewater disposal systems;

(12) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the utility system and any other of its properties, and to amend the same;

(13) To do and perform any acts and things authorized by P.L.1957, c.183 (C.40:14B-1 et seq.) under, through, or by means of its own officers, agents and employees, or by contracts with any person;

(14) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the municipal authority or to carry out any power expressly given in P.L.1957, c.183 (C.40:14B-1 et seq.) subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(15) To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, furnishing, and operating by that person of any part of a solid waste system, sewage treatment system, wastewater treatment or collection system for the provision of services and facilities within or without the district, which in the case of a solid waste system shall be in a manner consistent with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and in conformance with the solid waste management plans adopted by the solid waste management districts created therein. The credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, provisions for the construction, use, operation and maintenance and financing of that part of the aforementioned systems as the authority may deem necessary or desirable;

(16) Upon the request of a customer: (i) to offer the customer the ability to receive or access, in electronic format, any periodic bill for service sent by the municipal authority to its customers and any additional information sent by the municipal authority to its customers as required by law, provided that any notice of disconnection, discontinuance or termination of service shall be sent to a customer in written form at the customer's legal mailing address in addition

to being sent or being made available in electronic format; and (ii) to provide the customer the option of paying any such periodic bill via electronic means;

(17) In the case of an authority that is a pilot county utilities authority, to fund improvements to county infrastructure pursuant to the provisions of subsection b. of section 40 of P.L.1957, c.183 (C.40:14B-40); and

(18) To finance the replacement of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into the privately-owned structure, for the purpose of replacing residential, commercial, and institutional lead service lines, regardless of possible private service connection ownership.

3. R.S.40:56-1 is amended to read as follows:

Local improvements; definition and enumeration, doing work as general improvement.

R.S.40:56-1. A local improvement is one, the cost of which, or a portion thereof, may be assessed upon the lands in the vicinity thereof benefited thereby.

Any municipality may undertake any of the following works as a local improvement; and the governing body thereof may make, amend, repeal and enforce ordinances for carrying into effect all powers granted in this section:

a. The laying out, opening or establishing of a new street, alley, or other public highway, or portion thereof.

b. The widening, straightening, extension, alteration or changing in any manner of the location of a street, alley or other public highway, or portion thereof.

c. The grading or alteration of the grade of a street, alley or other public highway, or portion thereof.

d. The paving, repaving, or otherwise improving or reimproving a street, alley or other public highway, or portion thereof.

e. The curbing or recurbing, guttering or reguttering of a sidewalk in, upon, or along a street, alley or other public highway, or portion thereof.

f. The construction, reconstruction, improvement and reimprovement of bridges and viaducts.

g. The construction, reconstruction, improvement, reimprovement or relocation of a public walk or driveway on any beach, or along the ocean or any river or other waterway.

h. The improvement or reimprovement of any beach or water front, and the providing of suitable protection to prevent damage to lands or property by the ocean or other waters, including the filling in and grading necessary for the protection of such improvements.

i. The construction, reconstruction, enlargement or extension of a sewer or drain in, under or along a street, alley or public highway, or portion thereof, or in, under or along any public or private lands; the construction, reconstruction, enlargement or extension of a system of sewerage or drainage or both combined; the construction, reconstruction, enlargement or extension of a system of drainage of the marshes and wet lowlands within the municipality; the construction, reconstruction, enlargement or alteration of a system of works for the sanitary disposal of sewage or drainage.

j. (1) The installation of service connections to a system of water, gas, light, heat or power works owned by a municipality or otherwise, including all such works as may be necessary for supplying water, gas, light, heat or power to real estate for whose benefit such services are provided. This authorization includes, but shall not be limited to, the installation of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into the privately-owned structure, for the purpose of replacing residential, commercial, and institutional lead service lines, regardless of possible private service connection ownership;

(2) The installation of service connections including the laying, construction or placing of mains, conduits or cables in, under or along a street, alley or other public highway or portion thereof.

k. The construction, reconstruction, enlargement or extension of any water main or other works for the distribution of water supplied by the State or any of its political subdivisions, or any public agency of any of the same.

l. The installation of such lighting standards, appliances and appurtenances as may be required for the brilliant illumination of the streets in those parts of the municipality where the governing body of the municipality may deem it necessary or proper to establish what is commonly called a "white way."

m. The widening, deepening or improvement of any stream, creek, river or other waterway.

n. The removal of obstructions in, and the constructing, reconstructing, enlarging or extending of any waterway, of enclosing walls, or of a pipe or conduit or any brook or watercourse, or part of same.

o. The defining of the location and the establishment of widths, grades and elevations of any stream, creek, river or other waterway, and the preventing of encroachments upon the same.

p. The reclaiming, filling and improving and bulkheading and filling in lands lying under tidal or other water, in whole or in part, within the municipality; the reclaiming or filling or bulkheading and filling those lands or lands adjacent to such reclaimed or filled lands; to dredge channels or

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improve harbor approaches in the waters abounding the lands to be reclaimed, filled and improved, or bulkheaded and filled; provided, the approval of the Tidelands Resource Council established pursuant to section 10 of P.L.1948, c.448 (C.13:1B-10), and when necessary, the permission of the federal authorities in charge of the district port in which the improvements are proposed to be made, to improve and dredge channels and construct and improve the harbor approaches to those lands, shall be first had and obtained.

The governing body may enter into agreements with the federal government for reimbursement to the municipality for all or a portion of the cost of dredging channels or improving harbor approaches in waters under the jurisdiction of the federal government.

If any portion of the amount assessed against the lands within the municipality for the improvement shall be reimbursed to the municipality by the federal government after the assessment has been made, then a credit shall be made on each assessment levied in proportion to the amount so received from the federal government; provided, the amount received by the municipality from the federal government shall be in excess of the amount fixed in the assessment to be borne by the municipality at large.

If any portion of the land included within lands benefited or improved by any work done in connection with the reclaiming, filling or bulkheading and filling shall be riparian lands or lands under water, for which the riparian grant has not theretofore been made by the State, the municipal board or body authorized to make assessments for improvements in accordance with this subtitle may include in any such assessment a prospective assessment against the riparian lands or lands under water, and a copy of such prospective assessment shall be filed with the Tidelands Resource Council and shall be a part of the records of that council. Upon the sale or grant by the State of the riparian rights to any such lands for which a prospective assessment has been filed with the council, the amount of such prospective assessment together with interest at the rate of five percent annually from the time of the confirmation of the assessment for the improvement shall be included by the Tidelands Resource Council in the purchase price fixed for such lands and made a part of the payment for the grant, and the amount of the assessment with interest, when paid, shall be turned over by the Tidelands Resource Council to the municipality making the assessment. Such prospective assessment shall also be included in the general assessment for and against any such riparian lands or lands under water for which an annual rental or fee is being charged or collected by the Tidelands Resource Council under any agreement by which the fee of any such riparian lands is passed, and when the

fee does so pass by grant from the State the prospective assessment shall become immediately due and payable, together with interest thereon at the rate of five percent annually from the time of the confirmation of the assessment for the improvement and the assessment shall become a lien upon those lands until paid and shall be collectible as other liens for public improvements in the municipality. Should the Tidelands Resource Council lease for a term of years any such riparian lands or lands under water, included within lands benefited or improved by any work done in connection with the reclaiming, filling or bulkheading and filling, it shall include in the annual rental to be charged therefor one-tenth of the amount of the prospective assessment for each year of the term not exceeding ten years until the prospective assessment and the interest thereon at the rate of five percent annually from the time of confirmation of the assessment for the improvement, shall be paid. If the lease shall be for a period less than ten years, such provision shall be contained in any and all extensions and renewals thereof, or in any new leases until the full prospective assessment with such interest shall have been paid. Nothing contained in this subparagraph shall apply to lands owned by a company whose rates are subject to regulation by the Board of Public Utilities.

Whenever convenient more than one of the works provided for in this section may be carried on as one improvement. Any municipality may undertake any or all of the works mentioned in this section as a general improvement to be paid for by general taxation, and any municipality may provide for the maintenance, repair and operation of any or all of said works by taxation whether the same are undertaken as local or general improvements.

4. R.S.40:56-35 is amended to read as follows:

Assessments, payment in installments; delinquent installments.

40:56-35. The governing body may by resolution provide that the owner of any real estate upon which any assessments for any improvement shall have been made may pay such assessments in such equal yearly or quarterly installments, not exceeding ten years in duration, except as hereinafter provided, with legal interest thereon, and at such time in each year as the governing body shall determine, but any person assessed may pay the whole of any assessment, or any balance of installments, with accrued interest thereon, at one time. If any such installment shall remain unpaid for 30 days after the time when the same shall have become due, either:

a. the whole assessment or balance due thereon shall become and be immediately due, shall draw interest at the rate imposed upon the arrearage of taxes in such municipality and be collected in the same manner as is provided by this subtitle for other past due assessments; or

b. the governing body may, by resolution, permit any person who is delinquent in the payment of such an installment to pay only the amount of the delinquent payment and any interest on the delinquent payment that has accrued from the date that the installment was due and payable until the date that payment of the delinquent installment is made. After the delinquent installment is satisfied, the person assessed shall be reinstated on a regular installment payment schedule.

Whenever any owner shall be given the privilege of paying any assessment in installments such assessment shall remain a lien upon the land described therein until the same with all installments and accrued interest thereon shall be paid, and no proceedings to collect or enforce the same need be taken until default shall be made in the payment of any installment as hereinbefore in this subtitle provided.

In any municipality which is constructing a local improvement with funds secured from the federal government, through the public works administration, under the terms of the national recovery act, the governing body may provide that the assessments may be payable in yearly or quarterly installments, with legal interest thereon, over a period of years up to but in no event exceeding the term of years for which the funds therefor are borrowed from the Federal Government, and at such time in each year as the governing body shall determine. The governing body may fix the yearly installments in such amounts as in its opinion are equitable and just.

In any municipality in which the local improvement is being financed by the sale of bonds, the governing body may provide that the assessments may be payable in yearly or quarterly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 20 years, whichever shall be less, and at such time in each year as the governing body shall determine. In the case of assessments for the replacement of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into a privately-owned structure, when used in reference to a project undertaken for the purpose of replacing residential, commercial, and institutional lead service lines, regardless of possible private service connection ownership, the period of years may be greater than 20 years but shall not exceed 30 years. The governing body may fix the yearly installments in such amounts as in its opinion are equitable and just.

5. N.J.S.40A:2-22 is amended to read as follows:

Maximum bond terms.

40A:2-22. The governing body of the local unit shall determine the period of usefulness of any purpose according to its reasonable life computed from the date of the bonds, which period shall not be greater than the following:

a. Buildings and structures.

1. Bridges, including retaining walls and approaches, or permanent structures of brick, stone, concrete or metal, or similar durable construction, 30 years.

2. Buildings, including the original furnishings and equipment therefor:

Class A: A building, of which all walls, floors, partitions, stairs and roof are wholly of incombustible material, except the window frames, doors, top flooring and wooden handrails on the stairs, 40 years;

Class B: A building, the outer walls of which are wholly of incombustible material, except the window frames and doors, 30 years;

Class C: A building which does not meet the requirements of Class A or Class B, 20 years.

3. Buildings or structures acquired substantially reconstructed or additions thereto, one-half the period fixed in this subsection for such buildings or structures.

4. Additional furnishings, five years.

b. Marine improvements.

1. Harbor improvements, docks or marine terminals, 40 years.

2. Dikes, bulkheads, jetties or similar devices of stone, concrete or metal, 15 years; of wood or partly of wood, 10 years.

c. Additional equipment and machinery.

1. Additional or replacement equipment and machinery, 15 years.

2. Voting machines, 15 years.

3. Information technology and telecommunications equipment, 7 years, except that for items with a unit cost of less than $5,000, 5 years.

d. Real property.

1. Acquisition for any public purpose of lands or riparian rights, or both, and the original dredging, grading, draining or planting thereof, 40 years.

2. Improvement of airport, cemetery, golf course, park, playground, 15 years.

3. Stadia of concrete or other incombustible materials, 20 years.

e. Streets or thoroughfares.

1. Elimination of grade crossings, 35 years.

2. Streets or roads:

Class A: Rigid pavement. A pavement of not less than eight inches of cement concrete or a six-inch cement concrete base with not less than three-inch bituminous concrete surface course, or equivalent wearing surface, 20 years.

Flexible pavement. A pavement not less than 10 inches in depth consisting of five-inch macadam base, three-inch modified penetration macadam and three-inch bituminous concrete surface course or other pavements of equivalent strength, in accordance with the findings of the American Association of State Highway Officials (AASHO) Road Test, 20 years.

Class B: Mixed surface-treated road. An eight-inch surface of gravel, stone or other selected material under partial control mixed with cement or lime and fly ash, six inches in compacted thickness with bituminous surface treatment and cover, 10 years.

Bituminous penetration road. A five-inch gravel or stone base course and a three-inch course bound with a bituminous or equivalent binder, 10 years.

Class C: Mixed bituminous road. An eight-inch surface of gravel, stone, or other selected material under partial control mixed with bituminous material one inch or more in compacted thickness, five years.

Penetration macadam road. A road of sand, gravel or water-bound macadam, or surfacing with penetration macadam, five years.

3. Sidewalks, curbs and gutters of stone, concrete or brick, 10 years.

The period of usefulness in this subsection shall apply to construction and reconstruction of streets and thoroughfares.

f. Utilities and municipal systems.

1. Sewerage system, whether sanitary or storm water, water supply or distribution system, 40 years.

2. Electric light, power or gas systems, garbage, refuse or ashes incinerator or disposal plant, 25 years.

3. Communication and signal systems, 10 years.

4. Service connections to publicly-owned gas, water or sewerage systems from the service main in the street to the curb or property lines where not part of original installation, five years.

5. Service connections to publicly-owned water systems, from the distribution main onto privately-owned real property and into the privately-owned structure, for the purpose of replacing residential, commercial, and institutional lead service lines, 30 years.

g. Vehicles and apparatus.

1. Fire engines, apparatus and equipment, when purchased new, but not fire equipment purchased separately, 10 years.

2. Automotive vehicles, including original apparatus and equipment (other than passenger cars and station wagons), when purchased new, five years.

3. Major repairs, reconditioning or overhaul of fire engines and apparatus, ambulances, rescue vehicles, and similar public safety vehicles (other than passenger cars and station wagons) which may reasonably be expected to extend for at least five years the period of usefulness thereof, five years.

h. The closure of a sanitary landfill facility utilized, owned or operated by a county or municipality, 15 years; provided that the closure has been approved by the Board of Public Utilities and the Department of Environmental Protection. For the purposes of this subsection "closure" means all activities associated with the design, purchase or construction of all measures required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize or monitor pollution or health hazards resulting from sanitary landfill facilities subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the costs of the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

i. (Deleted by amendment, P.L.2007, c.62.)

j. The prefunding of a claims account for environmental liability claims by an environmental impairment liability insurance pool pursuant to P.L.1993, c.269 (C.40A:10-38.1 et al.), 20 years.

C.40A:4-35.2 Periodic study of adequacy, reasonableness of certain charges for water system.

6. a. A local unit shall be required to conduct a periodic study of the adequacy and reasonableness of the rates, fees, rents, and charges for a water system that the local unit owns or operates through a utility. The Local Finance Board in the Department of Community Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the procedures, requirements, and frequency of the study. Each completed study shall be submitted to the Director of the Division of Local Government Services in the Department of Community Affairs along with the annual budget of the local unit.

b. The director may summon appropriate officials of the local unit to a hearing before the Local Finance Board if the director determines that the rates, fees, rents, or charges for a water system that the local unit owns or operates through a utility may not be adequate or reasonable as determined by the study conducted pursuant to subsection a. of this section, or if the local

unit fails to conduct a study pursuant to subsection a. of this section. The Local Finance Board may require the production of papers, documents, witnesses, or information and may take or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called. After the hearing, the Local Finance Board shall have the power to order the local unit to adjust the utility's water system-related rents, rates, fees, or charges, or take such other action as the Local Finance Board deems appropriate to ensure the integrity of the utility's water infrastructure, and this order shall be valid and enforceable notwithstanding any provision of R.S.48:2-1 et seq. to the contrary.

7. N.J.S.40A:4-43 is amended to read as follows:

Capital budgets; definition.

40A:4-43. The governing body may and shall, when directed by the local government board, prepare, approve and adopt a budget for the expenditure of public funds for capital purposes to give effect to general improvement programs.

A capital budget shall be a plan for the expenditure of public funds for capital purposes, showing as income the revenues, special assessments, free surplus, and down payment appropriations to be applied to the cost of a capital project or projects, expenses of issuance of obligations, engineering supervision, contracts and any other related expenditures. The capital budget for a local unit that is required to prepare an asset management plan pursuant to section 7 of the "Water Quality Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) shall identify the infrastructure improvements to be undertaken in accordance with the local unit's asset management plan or pursuant to any rule or regulation pertaining to asset management adopted by the Commissioner of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), as applicable, and their cost.

8. N.J.S.40A:4-44 is amended to read as follows:

Form, arrangement and detail of capital budgets.

40A:4-44. The local government board shall adopt, and may from time to time amend, reasonable rules and regulations for capital budgets. Regulations may classify the type of budget required, according to the size of the local unit, the nature of the capital projects or any other reasonable basis of distinction, and shall require a statement of capital undertakings underway or projected for a period not greater than over the next ensuing 6 years as a

general improvement program. The statement of capital undertakings for local unit that is required to prepare an asset management plan pursuant to section 7 of the "Water Quality Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) shall identify the infrastructure improvements to be undertaken in accordance with the local unit's asset management plan or pursuant to any rule or regulation pertaining to asset management adopted by the Commissioner of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), as applicable, and their cost.

After promulgation of regulations by the local government board, the governing body shall expend or incur obligations for capital purposes only after the adoption of a capital budget and in accordance with such budget except for the preliminary expense of plans, specifications and estimates.

9. N.J.S.40A:4-78 is amended to read as follows:

Approval of budget, exemptions.

40A:4-78. a. If the director finds that all requirements of law and of the regulations of the local government board have been met, the director shall approve the budget, otherwise the director shall refuse to approve it.

The director, in refusing to approve a budget, shall not substitute the director's discretion with respect to the amount of an appropriation when such amount is not made mandatory because of the requirements of law. If a budget fails to incorporate infrastructure improvements identified in an asset management plan required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) or any rule or regulation pertaining to asset management adopted by the Commissioner of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), as applicable, the director may order the inclusion of the improvements, along with any revenues or appropriations necessary to fund and effectuate the improvements. The director may order such other measures as the director deems necessary to ensure the integrity of the local unit's water infrastructure; however, the director may take into account the local unit's fiscal circumstances in determining appropriate measures.

b. Notwithstanding the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, the Local Finance Board is authorized to adopt rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain municipalities from the requirement that the director approve their annual budgets and to provide instead for a system of local examination and approval of such budgets by municipal officials, provided that:

(1) the director finds that such municipalities are fiscally sound and that their fiscal practices are conducted in accordance with law and sound administrative practice;

(2) the director shall examine the budgets of such municipalities in accordance with the provisions of N.J.S.40A:4-10 and N.J.S.40A:4-76 through 40A:4-79, at least every third year;

(3) the governing body and chief financial officer of each such municipality shall each file a certification with the director stating that, with reference to the adopted budget of the municipality, they have:

(a) examined the budget in the manner prescribed under N.J.S.40A:4-76;

(b) determined that the budget complies with the requirements set forth in N.J.S.40A:4-77; and

(c) determined that the budget complies with all other provisions of law, including, but not limited to, the "Local Budget Law," N.J.S.40A:4-1 et seq., P.L.1976, c.68 (C.40A:4-45.1 et seq.), and the regulations of the Local Finance Board;

(4) all budget documents required by law or the regulations adopted by the Local Finance Board shall be filed with the director on a timely basis;

(5) other criteria and responsibilities as established by the regulations adopted by the Local Finance Board are met.

c. The director shall act to require immediate compliance with the "Local Budget Law," N.J.S.40A:4-1 et seq., if the director finds that any such exemption impairs the fiscal integrity or solvency of any such municipality. Any appeal of a governing body's action in adopting an annual budget shall be made to the director.

d. If a municipality has received approval for a special emergency appropriation pursuant to subsection m. of N.J.S.40A:4-53, that municipality shall not be eligible for local examination and approval pursuant to subsection b. of this section until the fiscal year after the final appropriation is made.

10. Section 10 of P.L.1983, c.313 (C.40A:5A-10) is amended to read as follows:

C.40A:5A-10 Submission of budget.

10. a. Each authority shall submit a budget for each fiscal year to the director prior to its adoption thereof. The budget shall comply with the terms and provisions of any bond resolutions, and shall be in such form and detail as to items of revenue, expenditure and other content as shall be required by law or by rules and regulations of the Local Finance Board.

b. The Local Finance Board shall prescribe by rule or regulation the procedure for the adoption of budgets by authorities. The rules and regulations may include or be similar to any provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.) which the Local Finance Board shall deem to be practicable or necessary, and may further include any other provisions and requirements which the Local Finance Board shall deem appropriate or necessary. The rules and regulations shall provide for approval or disapproval of a budget within 45 days of the director's receipt thereof.

c. The Local Finance Board shall also prescribe by rule or regulation the procedures and requirements for execution of any budget after adoption, and for the administration of financial affairs of authorities. The rules and regulations may include, without limitation, any provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.), and the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.), which the Local Finance Board shall deem to be practicable and necessary.

d. Notwithstanding the provisions of subsection a. of this section and section 11 of P.L.1983, c.313 (C.40A:5A-11), the Local Finance Board is authorized to adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to exempt certain authorities from the requirement that the director approve their annual budgets and to provide instead for a system of local examination and approval of such budgets by authority officials, provided that:

(1) the director finds that such authorities are fiscally sound and that their fiscal practices are conducted in accordance with law and sound administrative practice;

(2) the director shall examine the budgets of such authorities in accordance with the provisions of this section and section 11 of P.L.1983, c.313 (C.40A:5A-11), at least every third year;

(3) the governing body and chief financial officer of each such authority shall each file a certification with the director stating that, with reference to the adopted budget of the authority, they have:

(a) examined the budget in the manner prescribed under this section and section 11 of P.L.1983, c.313 (C.40A:5A-11), and determined that the budget complies with requirements set forth therein; and

(b) determined that the budget complies with all other provisions of law, including, but not limited to, the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and the regulations of the Local Finance Board;

(4) all budget documents required by law or the regulations adopted by the Local Finance Board shall be filed with the director on a timely basis;

(5) other criteria and responsibilities as established by the regulations adopted by the Local Finance Board are met.

The director shall act to require immediate compliance with the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), if the director finds that any such exemption impairs the fiscal integrity or solvency of any such authority. Any appeal of a governing body's action in adopting an annual budget shall be made to the director.

e. The budget for an authority that is required to prepare an asset management plan pursuant to section 7 of the "Water Quality Accountability Act," P.L.2017, c.133 (C.58:31-7) or that holds a permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) shall identify the infrastructure improvements to be undertaken in accordance with the authority's asset management plan or pursuant to any rule or regulation pertaining to asset management plans adopted by the Commissioner of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), as applicable.

C.40A:5A-10.1 Periodic study of adequacy, reasonableness for certain charges.

11. a. A municipal utilities authority with a water supply operation shall be required to conduct a periodic study of the adequacy and reasonableness of the rates, fees, rents, or charges for the operation. The Local Finance Board in the Department of Community Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the procedures, requirements, and frequency of the study. Each completed study shall be submitted to the Director of the Division of Local Government Services in the Department of Community Affairs along with the annual budget of the authority.

b. The director may summon appropriate officials of the authority to a hearing before the Local Finance Board if the director determines that the authority's rates, fees, rents, or charges may not be adequate or reasonable as supported by a study conducted pursuant to subsection a. of this section, or if the authority fails to conduct a study pursuant to subsection a. of this section. The Local Finance Board may require the production of papers, documents, witnesses, or information and may take or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called. After the hearing, the Local Finance Board shall have the power to order the authority to adjust the rents, rates, fees, or charges for its water supply operation, or take such other action as the Local Finance Board deems appropriate to ensure the integrity of the water infrastructure owned by the authority, and this order shall be valid and enforceable notwithstanding any provision of R.S.48:2-1 et seq. to the contrary.

12. Section 11 of P.L.1983, c.313 (C.40A:5A-11) is amended to read as follows:

C.40A:5A-11 Approval of budget.

11. No authority budget subject to the provisions of subsection a. of section 10 of P.L.1983, c.313 (C.40A:5A-10) shall be finally adopted until the director shall have approved same. In granting the approval, the director shall consider whether or not:

a. All estimates of revenue are reasonable, accurate and correctly stated;

b. Items of appropriation are properly set forth;

c. In itemization, form and content, the budget will permit the exercise of the comptroller function within the authority;

d. The schedule of rates, fees and charges then in effect will produce sufficient revenues, together with all other anticipated revenues, to satisfy all obligations to the holders of bonds of the authority, to meet operating expenses, capital outlays, debt service requirements, and to provide for such reserves, all as may be required by law, regulation or terms of contracts and agreements.

The director may require such documentation, records and other information, and undertake any audit or investigation, as the director may deem necessary in connection with the review.

If the director finds that all requirements of law and the rules and regulations of the Local Finance Board have been met, the director shall, within 45 days after receipt of the budget, approve it; otherwise the director shall within that time refuse to approve it. The director, in refusing to approve the budget, shall not substitute the director's discretion with respect to the amount of an appropriation when that amount is not made mandatory by law or regulation. If a budget fails to incorporate infrastructure improvements identified in an asset management plan required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) or any regulations adopted by the Commissioner of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.) pertaining to asset management, as applicable, the director may order the inclusion of the improvements, along with any revenues or appropriations necessary to fund and effectuate the improvements. The director may order other measures as the director deems necessary to ensure the integrity of the authority's water infrastructure; however, the director may take into account the authority's fiscal circumstances in determining appropriate measures.

Any decision of the director in the course of budget review under this section may be appealed to the Local Finance Board in the manner generally provided by law.

C.40A:5A-20.1 Appropriation of certain funds.

13. a. Whenever there is available an undesignated fund balance or unreserved retained earnings held by a municipal utilities authority with a water supply operation that is being dissolved by a municipality, no more than five percent of the annual costs of operation of the authority, as set forth in the final adopted budget of the authority, may be appropriated therefrom for uses not directly related to drinking water management, unless the Local Finance Board determines that the municipality has demonstrated a need for greater than five percent based on a showing of significant fiscal distress.

b. The Local Finance Board may condition its approval for a municipality's proposal to dissolve a municipal utilities authority on the municipality's proposal to comply with subsection a. of this section.

c. This section shall not apply to a regional authority.

14. N.J.S.40A:31-3 is amended to read as follows:

Definitions.

40A:31-3. As used in the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq.:

a. "Bonds" means bond anticipation notes or bonds issued in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq.

b. "Cost" as applied to water supply facilities or extensions or additions thereto, means the cost of acquisition or the construction, including improvement, reconstruction, extension or enlargement, the cost of all labor materials, machinery and equipment, the cost of all lands, property, rights and easements acquired, the cost of demolition or removal of any buildings or structures thereon, financing charges, interest on bonds issued to finance water supply facilities prior to and during construction, the cost of plans and specifications, surveys or estimates of costs and revenues, the cost of engineering, legal services, and any other expenses necessary or incident to determining the feasibility of construction, administrative expenses and such other expenses as may be necessary or incident to the construction or acquisition of water supply facilities, and the financing thereof.

c. "Local unit" means a county or municipality.

d. "Water supply facilities" means the plants, structures or other real and personal property acquired, constructed or operated, or to be financed, acquired, constructed or operated, or any parts thereof, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks, or sources of water supply, well, purification or filtration plants,

or other plants or works, connections, rights of flowage or diversion, and other plants, structures, boats, conveyances and other real and personal property, or rights therein, and appurtenances necessary or useful for the accumulation, supply or distribution of water.

The term "water supply facilities" includes the replacement of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into a privately-owned structure, when used in reference to a project undertaken for the purpose of replacing residential lead service lines, regardless of possible private service connection ownership.

15. Section 5 of P.L.1995, c.101 (C.58:26-23) is amended to read as follows:

C.58:26-23 Notice of intent, review of proposals, negotiation of contract, terms.

5. a. A public entity shall publish notice of its intent to enter into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in at least one newspaper of general circulation in the jurisdiction or service area that will receive water supply services under the terms of a contract and one newspaper of broad regional circulation, at least 60 days prior to conducting the public hearing required under section 6 of P.L.1995, c.101 (C.58:26-24). In addition, a public entity that intends to enter into a contract with a private firm for the provision of water supply services shall notify in writing the board, department and division of its intent.

b. The public notice required under subsection a. of this section shall describe the type of services desired and provide the name, address and phone number of the person who can provide additional information and a proposal document to an interested party. The notice shall specify a deadline, that shall be not less than 30 days from the date of the publication of the notice for the submission of proposals by private firms to the public entity. The public entity may at any time revise the proposal document and each private firm that received a proposal document shall be provided with the revised proposal document.

c. The public entity shall conduct a review of the proposals submitted by private firms to determine which proposals meet the minimum qualifications and standards. The review shall be conducted in a manner that avoids disclosure of the contents of a proposal to any private firm submitting a competing proposal. The public entity may conduct discussions with a private firm submitting a qualified proposal for the purpose of clarifying the information submitted in the proposal. The public entity may at any time revise its proposal document after the review of the submitted proposals if it notifies simultaneously and in writing

each private firm that submitted a proposal of the revision and provides a uniform time within which a firm may submit a revised proposal for review.

d. A public entity shall select one qualified proposal from among those submitted. The public entity shall negotiate a contract with the private firm that submitted the selected proposal. If the public entity is unable to negotiate a satisfactory contract with the selected private firm, it may select another qualified proposal from among those submitted and proceed to negotiate a contract with the private firm that submitted the proposal. The public entity shall set forth in writing the reasons for the selection of the qualified proposal submitted by the private firm with which the public entity has negotiated a proposed contract and shall make this document available to the public along with the proposed contract upon request and during the public hearing conducted pursuant to section 6 of P.L.1995, c.101 (C.58:26-24).

e. A contract entered into pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall include provisions addressing the following:

(1) The charges, rates, fees or formulas to be used to determine the charges, rates, or fees to be charged by the public entity for the water supply services to be provided;

(2) The allocation of the risks of financing and constructing planned capital additions or upgrades to existing water supply facilities;

(3) The allocation of the risks of operating and maintaining the water supply facility;

(4) The allocation of the risks associated with circumstances or occurrences beyond the control of the parties to the contract;

(5) The defaulting and termination of the contract;

(6) The employment of current employees of the public entity whose positions or employment will be affected by the terms of the contract;

(7) The private firm's authority and the extent, or the procedures for the use, of that authority to initiate, negotiate and finalize the terms for a bulk sale of surplus water. The contract shall either grant the private firm such authority or specifically state that the firm is denied that authority. Nothing in P.L.1995, c.101 (C.58:26-19 et al.) shall be construed to authorize a public entity that enters into a contract pursuant to P.L.1995, c.101 (C.58:26-19 et al.) to provide for the bulk sale, lease or transfer of water if the water being transferred, leased or sold has been supplied to the public entity either by the New Jersey Water Supply Authority or by the North Jersey District Water Supply Commission, unless the authority pursuant to P.L.1981, c.293 (C.58:1B-1 et seq.) or the district pursuant to R.S.58:5-1 et seq., as appropriate, has agreed to the bulk sale, lease or transfer;

(8) The requirements for the provision of a performance bond by the private firm, if so required by the public entity; and

(9) The allocation of responsibility for compliance with the provisions of the "Water Quality Accountability Act," P.L.2017, c.133 (C.58:31-1 et seq.), if applicable.

A contract may contain any other terms and conditions that have been negotiated by the public entity and the private firm.

f. If a dispute over contract compliance, performance or termination cannot be resolved by the public entity and the private firm pursuant to the procedures set forth in the contract, either party to the contract may file with the Superior Court which has appropriate jurisdiction a request for an order either to terminate the contract based on the reasons stated in the request or for an order for other appropriate relief to the dispute. The court may take such action as it may deem necessary to facilitate the expeditious resolution of the dispute and an expeditious response to the request, including ordering the parties to undertake a dispute resolution or mediation process. The court shall use, as it deems necessary, the services of a financial expert in the area of water supply service contracts in its analysis of the contract and the issues before it. Within 90 days after the filing of a request, the court shall either grant the request or deny the request. If the request is granted, the court shall order such appropriate relief measures or remedies as it deems appropriate and necessary.

g. A public entity that has negotiated a contract with a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) shall obtain the written opinion of bond counsel as to effect of the contract on the tax exempt status of existing and future financing instruments executed by the public entity given the terms of the contract and the federal laws or regulations concerning this matter.

h. If a public entity entering a contract consists of multiple municipalities, a concession fee or other monetary benefit paid by a private firm as a result of the contract shall be paid directly to the municipalities constituting that public entity. Any concession fee or monetary benefit paid by a private firm to a public entity shall be used for the purpose of reducing or off-setting property taxes.

16. Section 7 of P.L.1995, c.101 (C.58:26-25) is amended to read as follows:

C.58:26-25 Approval of application.

7. a. Within 60 days of receipt of the application, the board and division shall approve, or conditionally approve, an application submitted by a public entity pursuant to subsection f. of section 6 of P.L.1995, c.101 (C.58:26-24). Within 60 days of receipt of the hearing report, the department shall provide any

comments on the hearing report it deems appropriate to the board, division and public entity. If the board or division fail to approve or conditionally approve the application within 60 days after receipt, the application shall be deemed approved, unless the public entity has agreed to an extension of the period.

b. If either the board or division conditionally approves the application, the board or division shall state in writing the revision to the proposed contract that is necessary in order for it to be approved. If the board or division determines that the required revision is substantial, the public entity shall hold a public hearing on the revision and adhere to the provisions of section 6 of P.L.1995, c.101 (C.58:26-24) in so doing. A substantial revision shall be a change that results in an increase in the charges, rates or fees of the private firm or that materially changes other terms and conditions of the contract. The proposed revision to the contract shall be submitted to the board, division and department 15 days prior to the date of the public hearing. If the board or division determines that the required revision in the conditional approval is not substantial, the public entity shall submit the proposed revision to the contract to the board and the division for approval and to the department for review. The revision shall be approved if found to be consistent with the conditions set forth in the conditional approval, or disapproved with a written explanation as to why the revision is not consistent, within 15 days after the next public meeting of the board or division.

c. In its review of a contract, the board shall apply the following criteria in determining whether to approve the contract:

(1) The private firm entering into the contract has the financial capacity and technical and administrative experience to ensure continuity of service over the term of the contract and that the standards and requirements contained in the application documents concerning the financial, technical and administrative capacity of the private firm are necessary and sufficient to protect the public interest.

(2) The terms of the contract are not unreasonable. In determining whether the terms of the contract are not unreasonable, the board shall review the fees and charges to be charged or assessed under the contract to determine that they are reasonable to the public entity, taking into consideration all of the obligations undertaken by the private firm and all the benefits obtained by the public entity. In making this determination, the board shall not use the traditional rate based rate of return methodology.

(3) The franchise customers of a public utility participating in a contract are protected from the risks of the proposed contract and that they are not subsidizing the contract. If a private firm is not a public utility, the

board shall ensure that under the terms of the proposed contract the users of water outside of the jurisdiction or service area that will receive water supply services under the contract are also protected from the risks of the contract and that water users outside the jurisdiction or service area are not subsidizing the contract through increased charges, rates or fees for the supply of water.

(4) The contract contains the provisions required by paragraphs (1), (2) and (6) of subsection e. of section 5 of P.L.1995, c.101 (C.58:26-23).

Upon approval of a contract as proposed or as revised in response to a conditional approval, the jurisdiction of the board over the contract shall terminate until or unless the contract is amended to change the formula or other basis of determining charges contained therein.

d. In its review of a contract, the division shall apply the following criteria in determining whether to approve the contract:

(1) The terms of the proposed contract do not materially impair the ability of the public entity to punctually pay principal and interest due on its outstanding indebtedness and to supply other essential public improvements and services.

(2) A concession fee or other monetary benefit paid by a private firm as a result of the contract is paid directly to the municipalities constituting that public entity, if a public entity consisting of multiple municipalities has entered into a contract. Any concession fee or monetary benefit paid by a private firm to a public entity is used for the purpose of reducing or off-setting property taxes.

(3) The contract contains the provisions required by paragraphs (3), (4), (5), (7), (8), and (9) of subsection e. of section 5 of P.L.1995, c.101 (C.58:26-23).

The division shall also review and specifically approve any contract provision pursuant to which a public entity will or may execute a financing instrument for the purposes set forth in the contract.

e. The board or division may provide the public entity with any non-binding comments or advice during or after the review of the application as the board or division deem appropriate.

f. The board or division shall assess and the applicant shall pay a fee equal to the cost incurred by the board or division for an analysis of an application by an independent person who has expertise in the area of water supply services if during the review of an application the board or division determine that such an analysis is required and a person with the required expertise is not readily available from within any executive department of the State government.

g. If the public entity and private firm would like to amend a contract after approval of an application by the board and division, the public entity shall submit proposed amendments to the board and division for approval

and to the department for review. At the next public meeting of the board and of the division after receipt of proposed amendments, the board and the division shall determine whether the proposed amendments are substantial. If the amendments are substantial in nature as determined by either the board or the division, the public entity shall conduct a hearing pursuant to section 6 of P.L.1995, c.101 (C.58:26-24). Within 60 days of the receipt of proposed amendments that are not determined to be substantial, or within 60 days of the receipt of an application for approval of proposed amendments that are determined to be substantial, the board and division shall approve or conditionally approve the amendments in accordance with the applicable procedures established for approval of an original contract pursuant to this section.

17. This act shall take effect immediately.

Approved July 22, 2021.

CHAPTER 185

AN ACT concerning civics education in public schools and designated as Laura Wooten's Law, amending P.L.1987, c.425, and supplementing chapter 35 of Title 18A of the New Jersey Statutes.

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

C.18A:35-40 Findings, declarations relative to civics education in public schools.

1. The Legislature finds and declares that:

a. New Jersey law requires school districts to provide a two-year course of United States history in high school, which is supposed to include curriculum on civics, economics, and the history of the State of New Jersey; however, most school districts' curricula focus solely on a chronology of United States history in meeting this statutory requirement;

b. New Jersey law also requires school districts to adopt a course of study about New Jersey history, geography, and community civics in an elementary grade; however, there are no social studies requirements for middle school;

c. Civic literacy and engagement are essential to maintaining a representative democracy;

d. Unlike 40 other states, New Jersey does not require school districts to provide a specific course in civics;

e. By age 10, students possess the higher order thinking skills necessary for a rigorous, reflective course in civics;

f. Independent studies conclude that well-designed civics education fosters an understanding and appreciation of democracy and the skills needed for participation in a democratic society;

g. Requiring students to complete a civics course in middle school will ensure that all New Jersey students have the opportunity to gain the knowledge and skills for active citizenship;

h. Professional development for teachers is critical to ensure effective classroom instruction; and

i. The New Jersey Center for Civic Education at Rutgers, The State University has substantial expertise and 30 years of experience providing professional development, sample curricula, and resources for New Jersey teachers.

2. Section 1 of P.L.1987, c.425 (C.18A:35-2.1) is amended to read as follows:

C.18A:35-2.1 Civics curriculum guidelines.

1. The New Jersey Center for Civic Education at Rutgers, The State University shall prepare curriculum guidelines and provide professional development for high school social studies teachers to help local school boards in fulfilling the requirements of integrating civics, economics, and the history of New Jersey as part of the required United States history course established pursuant to N.J.S.18A:35-1 and N.J.S.18A:35-2.

C.18A:35-41 Provision of course of study in civics.

3. Beginning in the 2022-2023 school year, each board of education shall provide a course of study in civics, which shall be taken by all students in an appropriate middle school grade. The course shall address: the values and principles underlying the American system of constitutional democracy; the function and limitations of government; and the role of a citizen in a democratic society. The board shall ensure that the course of study includes a minimum of two quarters of instruction, or the equivalent.

C.18A:35-42. Provision of materials, online resources.

4. The New Jersey Center for Civic Education at Rutgers, the State University shall provide a clearinghouse of materials, an online resource center, technical assistance, professional development and any other

activities to encourage the integration of civics, economics, and New Jersey history in the teaching of United States history pursuant to N.J.S.18A:35-1 and N.J.S.18A:35-2 and to enhance the middle school civics course of study as required pursuant to section 3 of this act. The Legislature shall annually appropriate such sums as are necessary to effectuate the purposes of this act to the New Jersey Center for Civic Education at Rutgers, the State University.

5. This act shall take effect immediately.

Approved July 23, 2021.

CHAPTER 186

A SUPPLEMENT to the Fiscal Year 2021 appropriations act, P.L.2020, c.97.

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

1. In addition to the amounts appropriated under P.L.2020, c.97, there is appropriated out of the General Fund the following sum for the purpose specified:

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services
GRANTS-IN-AID

22-7540 General Medical Services	$3,000,000
Total Grants-In-Aid Appropriation, Special Health Services	$3,000,000
Grants-In-Aid:	
22 Medical Coverage– Nursing Home Residents	($3,000,000)

2. The following language provision in section 1 of P.L.2020, c.97 is amended as follows:

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services
GRANTS-IN-AID

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated to the General Medical Services

program classification are subject to the following condition: assisted living residences, comprehensive personal care homes, and assisted living programs, shall receive a per diem rate of no less than $77, $67, and $57, respectively, as reimbursement for each NJ FamilyCare beneficiary under their care, provided that the reimbursement rate for assisted living residences, comprehensive personal care homes, and assisted living programs with a Medicaid population in excess of 50 percent of the facility's total amount of beds reported to the Department of Health as of June 1, 2021 shall be equal to the rate received on September 30, 2020, plus a 25 percent adjustment. Each facility that qualifies for such a rate adjustment shall use no less than 60 percent of the rate adjustment for the sole purpose of increasing wages or supplemental pay for staff providing direct care. The remainder of the rate adjustment shall be used for other costs related to coronavirus disease 2019 preparedness and response, including enhancing infection control measures, cleaning, reconfiguration of the facility to support cohorting, procurement of personal protective equipment, testing, or other staff wages and needs.

3. This act shall take effect immediately.

Approved July 23, 2021.

CHAPTER 187

AN ACT establishing a newborn home nurse visitation program, supplementing various parts of statutory law, and making an appropriation.

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

C.26:2H-158 Findings, declarations relative to a newborn home nurse visitation program.

1. The Legislature finds and declares that:

a. The weeks following birth are a critical period for the person who has given birth and the infant, setting the stage for long-term health and well-being;

b. During this period, the person who has given birth is adapting to multiple physical, social, and psychological changes, while simultaneously recovering from childbirth, adjusting to changing hormones, and learning to feed and care for a newborn;

c. Like prenatal care, the postpartum health care visit that typically occurs six weeks after childbirth is considered important to a new parent's health; however, for people who have given birth, the six-week postpartum visit punctuates a period devoid of formal or informal support for a parent who has recently given birth;

d. Additionally, according to the American College of Obstetricians and Gynecologists, as many as 40 percent of people who have given birth do not attend a postpartum visit in the United States;

e. During the time immediately following delivery, health care providers are uniquely qualified to enable a person who has given birth to access the clinical and social resources the person needs to successfully navigate the transition from pregnancy to parenthood;

f. Research also indicates that postpartum education and care lead to lower rates of morbidity and mortality in persons who have given birth, as many of the risk factors for post-delivery complications, such as hemorrhaging or a pulmonary embolism, may not be identifiable before a person who has given birth is discharged following the birth;

g. Such data demonstrate the wide ranging benefits to persons who have given birth, children, and families when a person who has given birth and the infant receive support from the medical community within days after delivering a child; and

h. It is, therefore, in the public interest for the Legislature to remove barriers regarding access to postpartum care and to establish the infrastructure for people who have given birth in New Jersey to receive one cost-free home nurse visit in which a registered nurse provides the necessary physical, social, and emotional support critical to recovery following childbirth.

C.26:2H-159 Statewide voluntary universal newborn home nurse visitation program.

2. a. The Department of Children and Families shall establish a Statewide voluntary universal newborn home nurse visitation program to provide home visitation services for a newborn infant and the parent or parents of the newborn infant. The purpose of the program shall be to support healthy child development and strengthen families.

b. In establishing the newborn home nurse visitation program, the Department of Children and Families shall:

(1) appoint an advisory group of stakeholders, which shall organize no later than 30 days after the date of enactment of P.L.2021, c.187 (C.26:2H-158 et al.) and which shall include at least one representative of each of the following entities: an insurance carrier that offers health benefit plans in the State; a hospital; a birthing facility; a local public health authority; a maternal

child health consortium; an early childhood home visitation program; a home health agency; a federally qualified health center; a community-based organization; and a social service agency;

(2) consult, coordinate, and collaborate with the advisory group established pursuant to paragraph (1) of this subsection in the development of the program;

(3) have the authority to develop a plan for the managed rollout of the program throughout the State;

(4) in consultation with the Departments of Banking and Insurance and Human Services, establish criteria for the coverage of services provided under the newborn home nurse visitation program by insurance carriers offering a health benefits plan in the State; and

(5) ensure that the program meets the needs of the residents in the communities in which the program operates.

c. The newborn home nurse visitation program shall be implemented in a culturally-competent manner and shall:

(1) be voluntary and carry no negative consequences for parents with a newborn infant who decline to participate in the program when applying for other services available to pregnant persons and when applying for other services available to all parents of newborn infants;

(2) offer home nurse visitation services in every community in the State and for all newborn infants and all parents of a newborn infant residing in the community in which the program operates, including resource family parents, adoptive parents, and parents experiencing a stillbirth;

(3) include at least one home nurse visit in the participating newborn infant's home within two weeks after the birth of an infant;

(4) provide the opportunity for no more than two additional visits during the newborn infant's first three months of life, with such additional visits occurring based on the family's choice, as well as need and availability as determined by the program;

(5) require that the home nurse visit be conducted by a registered nurse or an advanced practice nurse licensed in this State pursuant to Title 45 of the Revised Statutes;

(6) improve State outcomes in areas including maternal health, infant health and development, and parenting skills;

(7) be based on criteria established by the United States Department of Health and Human Services for an evidence-based early childhood home visiting service delivery model;

(8) include an evidence-based evaluation of the physical, emotional, and social factors affecting a parent or parents and the parent's or parents' newborn infant, including, but not limited to, a health and wellness check of

the newborn and an assessment of the physical and mental health of a person who has given birth;

(9) provide support services to the parent or parents of a newborn infant, including, but not limited to, breastfeeding education and assistance to a person who has recently given birth in recognizing the symptoms of, and coping with, perinatal mood disorder;

(10) coordinate with each hospital and birthing facility in the State to ensure that a person who has given birth is advised of the benefits of receiving a home nurse visit within two weeks after the birth of an infant, and to ensure that the program attempts to schedule a home nurse visit prior to the person's discharge from the hospital or facility;

(11) develop a method for providing parents, who elect to have a home birth, information about the program; and

(12) provide information on, and referrals to, services that address the specific needs of newborn infants and parents of a newborn infant, including linking a person who has given birth and the person's infant to a central intake agency for referrals to community resources, support services, community-based organizations or social service agency programs available to persons who have given birth and their infants, and medically necessary follow-up healthcare.

d. Nothing in this section shall be construed to require parents of a newborn infant to participate in the newborn home nurse visitation program.

e. The Department of Children and Families may contract with one or more third-party vendors or service providers to assist the department in administering the program established pursuant to this section, including hiring and staffing nurses and providing training on the home visiting model utilized by the program.

C.26:2H-160 Resource guide.

3. The Department of Children and Families, in consultation with the Department of Health, shall prepare a resource guide that provides information on the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) and the services available to pregnant persons, persons who have recently given birth, and the parent or parents of a newborn infant born in this State. The resource guide shall be distributed at the time parents of a newborn infant are informed of the newborn home nurse visitation program and of their right to schedule a home nurse visit.

C.26:2H-161 Collection, analysis of data.

4. a. The Department of Children and Families shall collect and analyze data about the newborn home nurse visitation program established pursuant

to P.L.2021, c.187 (C.26:2H-158 et al.). The data shall be used to evaluate, measure, and improve the effectiveness of the program in achieving its purpose of supporting healthy child development and strengthening families.

b. The Department of Children and Families shall work with other State departments and agencies, health insurance carriers that offer health benefit plans in the State, hospitals and birthing facilities, local public health authorities, maternal child health consortia, early childhood home visitation programs, community-based organizations, and social service providers, to develop protocols concerning the timely sharing of data collected pursuant to subsection a. of this section, including the sharing of data with the primary care providers of parents participating in the newborn home nurse visitation program.

c. The Department of Children and Families may contract with a third-party vendor with expertise in the model utilized by the program to assist with the analysis and evaluation of data collected pursuant to this section. In the event of such a contract, the department shall facilitate the sharing of data with the third party, in accordance with State and federal law.

C.17:48-6ww Hospital service corporation contract to cover newborn home nurse visitation program.

5. a. No group or individual hospital service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed, or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The contract shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the contract does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the hospital service corporation and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the contract for such services shall be waived.

c. Every hospital service corporation that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A contract offered by a group or individual hospital service corporation that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A contract offered by a group or individual hospital service corporation that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all contracts in which the hospital service corporation has reserved the right to change the premium.

C.17:48A-7tt Medical service corporation to cover newborn home nurse visitation.

6. a. No group or individual medical service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed, or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The contract shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the contract does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the medical service corporation and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the contract for services covered pursuant to subsection a. of this section shall be waived.

c. Every group or individual medical service corporation that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A contract offered by a group or individual medical service corporation that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A contract offered by a group or individual medical service corporation that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all contracts in which the group or individual medical service corporation has reserved the right to change the premium.

C.17:48E-35.47 Health service corporation to cover newborn home nurse visitations.

7. a. No group or individual health service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed, or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred for services provided under the newborn home nurse visitation program

established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The contract shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the contract does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the health service corporation and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the contract for such services shall be waived.

c. Every group or individual health service corporation that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A contract offered by a group or individual health service corporation that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A contract offered by a group or individual health service corporation that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium.

C.17B:26-2.1pp Individual policy to cover newborn home nurse visitation.

8. a. No individual health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed, or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the policy provides benefits to any named insured or other person covered thereunder for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The policy shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the policy does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the insurer and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the policy for such services shall be waived.

c. An individual health insurance policy that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) An individual health insurance policy that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) An individual health insurance policy that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

C.17B:27-46.10 Group health insurance policy to cover newborn home care visitation.

9. a. No group health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed, or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the policy provides benefits to any named insured or other person covered thereunder for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The policy shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the policy does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the insurer and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the policy for such services shall be waived.

c. Every insurer that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A group health insurance policy that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A group health insurance policy that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

C.17B:27A-7.30 Individual health benefits plan to cover newborn home nurse visitation.

10. a. Every individual health benefits plan that is delivered, issued, executed, or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in this State, on or after the effective date of this act, shall provide benefits to any person covered thereunder for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The plan shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the plan does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the carrier and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the health benefits plan for such services shall be waived.

c. Every carrier that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) An individual health benefits plan that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) An individual health benefits plan that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all health benefit plans in which the carrier has reserved the right to change the premium.

C.17B:27A-19.34 Small employer health benefits plan to cover newborn home nurse visitation.

11. a. Every small employer health benefits plan that is delivered, issued, executed, or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or renewal in this State, on or after the effective date of this act, shall provide benefits to any person covered thereunder for expenses for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The plan shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the plan does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the carrier and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required under the health benefits plan for such services shall be waived.

c. Every carrier that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess

the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A small employer health benefits plan that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A small employer health benefits plan that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The provisions of this section shall apply to all health benefit plans in which the carrier has reserved the right to change the premium.

C.26:2J-4.48 HMO to cover newborn home nurse visitation.

12. a. Notwithstanding any provision of law to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued by the Commissioner of Banking and Insurance on or after the effective date of this act unless the health maintenance organization provides health care services to any enrollee for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The benefits shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the plan does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits

to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the carrier and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the health benefits plan for such services shall be waived.

c. Every health maintenance organization that is subject to the provisions of this section shall submit to the Department of Banking and Insurance, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be shared with the Department of Children and Families and used by that department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A contract offered by a health maintenance organization that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A contract offered by a health maintenance organization that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of

P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The benefits shall be provided to the same extent as for any other medical condition under the contract.

C.30:4D-6r Medicaid to cover newborn home nurse visitation.

13. a. Notwithstanding any State law or regulation to the contrary, the Department of Human Services shall, contingent on maintaining or receiving necessary federal approvals, ensure that expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) shall be provided with no cost-sharing to eligible persons under the Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The coverage provided under this section shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the plan does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the carrier and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required pursuant to the contract for services covered pursuant to subsection a. of this section shall be waived.

c. The Assistant Commissioner of Human Services shall submit to the Department of Children and Families, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be used by the department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. The benefits shall be provided to the same extent as for any other medical condition under the contract.

C.52:14-17.29gg SHBC to cover newborn home nurse visitation.

14. a. The State Health Benefits Commission shall provide benefits to each person covered under the State Health Benefits Program for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159). The benefits shall:

(1) provide coverage for the services provided by the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159);

(2) notify a covered person of the services provided by the newborn home nurse visitation program, upon application by the covered person for coverage of a newborn infant;

(3) ensure that the plan does not contain any provision that requires a covered person to receive the services provided by the newborn home nurse visitation program as a condition of coverage, or that denies or limits benefits to the covered person if that person declines the services provided under the program; and

(4) have the discretion to determine how best to reimburse for the expenses incurred for services provided under the newborn home nurse visitation program, including, but not limited to, utilizing:

(a) a value-based payment methodology;

(b) an invoice claim process;

(c) a capitated payment arrangement;

(d) a payment methodology that takes into account the need for an agency or organization providing services under the program to expand its capacity to provide services and address health disparities; or

(e) any other payment arrangement agreed to by the carrier and an agency or organization providing services under the program.

b. Any copayment, coinsurance, or deductible that may be required under the contract for such services shall be waived.

c. The State Health Benefits Commission shall submit to the Department of Children and Families, in a form and manner prescribed by the department, a report on the claims submitted for services provided under the newborn home nurse visitation program.

The information contained in the report shall be used by the department to assess the newborn home nurse visitation program pursuant to subsection a. of section 4 of P.L.2021, c.187 (C.26:2H-161).

d. (1) Except as provided in paragraphs (2) and (3) of this subsection, the contract shall specify that no deductible, coinsurance, copayment, or any other cost-sharing requirement may be imposed on the coverage required pursuant to this section.

(2) A contract provided by the State Health Benefits Commission that qualifies as a high deductible health plan shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement permitted for a high deductible health plan under section 223(c)(2)(A) of the Internal Revenue Code (26 U.S.C. s.223).

(3) A contract provided by the State Health Benefits Commission that meets the requirements of a catastrophic plan, as defined in 45 C.F.R. s.156.155, shall provide benefits for expenses incurred for services provided under the newborn home nurse visitation program established pursuant to section 2 of P.L.2021, c.187 (C.26:2H-159) at the lowest deductible and other cost-sharing requirement to the extent permitted for a catastrophic plan under federal law.

e. The benefits shall be provided to the same extent as for any other medical condition under the contract.

C.26:2H-162 Rules, regulations.

15. a. The Departments of Banking and Insurance, Children and Families, and Human Services shall adopt rules and regulations as shall be necessary to implement the provisions of this act, which rules and regulations shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months and shall thereafter be adopted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The Commissioner of Banking and Insurance, in consultation with the Commissioner of the Department of Children and Families, shall have the authority to permit carriers to use an in-network provider that meets the requirements of the program, or contract with a vendor or provider selected by the program, to provide home visitation.

16. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of section 13 of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

17. There is appropriated from the General Fund to the Department of Children and Families the sum of $2,750,000 for the purposes of implementing the provisions of this act.

18. This act shall take effect immediately.

Approved July 29, 2021.

CHAPTER 188

AN ACT relating to matters of civil law by providing financial relief to certain landlords and tenants in response to the COVID-19 pandemic and by altering certain court fees, supplementing Title 52 of the Revised Statutes, and amending P.L.2020, c.1 and P.L.1991 c.177, and making an appropriation.

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

C.52:27D-287.7 Findings, declarations.

1. The Legislature finds and declares that:

a. The mortal threat posed by the COVID-19 pandemic compelled the Governor and Legislature to take drastic but necessary action. Executive Order No. 103 of 2020 effectively shut down the New Jersey economy on March 9, 2020, in order to hinder the rapid spread of the virus and to limit as much as possible the number of infections, severe illnesses, and deaths. During the same time period, the Governor and Legislature enacted P.L.2020, c.1 (C.2A:18-59.3) and the Governor issued Executive Order No. 106 of 2020, and implemented a moratorium on evictions, so as to ensure that during the covered period, households would be able to shelter in place and eliminate the threat posed by displacement, overcrowding, and the resultant spread of the virus.

b. The foregoing measures caused severe economic difficulties for landlords and tenants alike. Tenants, who in general have lower-incomes and

far less wealth than homeowners, have been disproportionately affected: a large number of them immediately became and remain unemployed or underemployed. This is especially so for lower-income people of color, who are predominantly tenants and who continue to be victimized by systemic and structural racism, which has left them severely disadvantaged and extremely vulnerable to health emergencies and economic downturns.

c. Millions of jobs in our State and elsewhere have been permanently lost, and a significant number of jobs abruptly interrupted by the virus-driven shutdown have yet to return.

d. As a result, thousands of tenants in our State are unable to pay all or even part of the rental arrearages caused by the pandemic when the moratorium ends, and these tenants will also find it extremely difficult to make their future, ongoing regular monthly rental payments once they resume.

e. An overwhelming number of struggling tenant households, that are disproportionately Black and brown, will therefore be at risk of eviction for non-payment of all or part of their rent due and owing shortly after the moratorium is lifted. Combining the number of struggling tenants with the number of people at risk of displacement if the arrearage and future rent payment issues are not addressed, evictions and the resulting overcrowding, could create conditions that will lead to a resurgence and new spread of COVID-19.

f. At the same time, landlords have shouldered the financial burden of housing over a million tenants, as well as the costs of maintaining the buildings, paying their mortgages, taxes, and other financial obligations with insufficient help from the State or federal government.

g. While housing is a necessity, private sector landlords have thus far maintained their properties and paid their financial obligations, including State and local taxes, despite a lack of full compensation or assistance.

h. In Executive Order No. 106 of 2020, the Governor expressly stated that protection and preservation of personal and public health was the primary reason driving the imposition of the economic shutdown and eviction moratorium, a health-centered concern echoed and reinforced by the national eviction moratorium subsequently mandated by the federal Centers for Disease Control and Prevention. With the surge in vaccinations and a corresponding drop in COVID-19 pandemic-related hospitalizations, the public health justification to maintain the eviction moratorium will eventually subside, and the Legislature deems it necessary to help struggling tenants avoid displacement and to compensate landlords for providing this

necessary shelter to many tenants without compensation during the pandemic.

i. In providing these protections, the State must ensure that rent arrearages accrued during the covered period are not used as a mechanism for eviction. Rather, such debt shall be treated as civil debt, subject to recovery by the landlord in a civil suit for a money judgment, which will balance the obligations of the tenant under a lease contract with the need to provide housing stability.

j. It is, therefore, necessary for the Legislature to assist landlords who have suffered deep economic losses through no fault of their tenants or themselves, and, simultaneously, make efforts to assist tenants who need help as a result of this crisis, in order to ensure some measure of security and stability for their families and communities; provide landlords with the restored rental income stream required to safely and efficiently operate their buildings; and prevent a resurgence of the COVID-19 pandemic that will threaten the health and safety of tenants, landlords, and the public at large.

C.52:27D-287.8 Definitions.

2. As used in P.L.2021, c.188 (C.52:27D-287.7 et al.):

"Area median income" means the median income by household size for an applicable county as determined by the department. "Assistance" means cash payments for unpaid rent provided to the landlord by any federal, State, county, or local rental assistance program, including, but not limited to, payments ultimately provided to a landlord through an application submitted by a tenant through the Eviction Prevention Program, as established pursuant to section 4 of P.L.2021, c.188 (C.52:27D-287.10).

"Commissioner" means the Commissioner of Community Affairs.

"Covered period" means the period beginning on March 1, 2020, and ending on August 31, 2021.

"COVID-19 pandemic" means the outbreak of COVID-19 throughout the world, recognized as a pandemic by the World Health Organization on March 11, 2020.

"Credit reporting agency" means any consumer reporting agency as that term is defined by the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681 et seq., which shall include any agencies which specialize in tenant screening or rental history reporting.

"Deep subsidy" means a rental housing subsidy which limits the tenant's share of the monthly rent to a percentage of the tenant's income, and which can be adjusted to maintain that percentage should the tenant's income change.

"Department" means the Department of Community Affairs.

"Household income" means the lower of the following numbers: (1) the combined income of all household members over the twelve months immediately preceding an application for assistance or protection, or (2) the combined income of all household members in the three months immediately preceding an application for assistance or protection, annualized by multiplying the combined income by a factor of four.

"Low-income household" means a household with a total current annual household income equal to 50 percent or less of the area median income for a household of the same size and composition.

"Middle-income household" means a household with a total current gross annual household income of 80 percent or more than, but less than 120 percent of, the area median income for a household of the same size and composition.

"Moderate-income household" means a household with a total current gross annual household income in excess of 50 percent but less than 80 percent of the area median income for a household of the same size and composition.

"Shallow subsidy" means a rental housing subsidy that limits the tenant's share of the rent to a percentage of the tenant's income, provided however, that the subsidy shall be capped at a fixed amount.

"Very low-income household" means a household with a total current annual household income less than or equal to 30 percent of the area median income for a household of the same size and composition.

C.52:27D-287.9 Eviction under certain circumstances prohibited.

3. a. Notwithstanding any other law to the contrary, no residential tenant of a very low-income household, low-income household, moderate-income household, or middle-income household shall be evicted based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, that accrued during the covered period. Payments made by a tenant after the covered period ends shall be credited first to the current month's rental obligation, and any balance shall be credited to any arrearage owed by the tenant incurred following the conclusion of the covered period, and then to any arrearages incurred during the covered period.

b. Any amount of rent found by a court to be due and owing by a residential tenant described in subsection a. of this section to a landlord during the covered period for which compensation is not otherwise provided by any public or private source, shall be considered civil debt and may be pursued as a money judgment in the appropriate division of the Superior Court. Such civil debt based on rental arrears shall be considered evidence of housing instability or risk of homelessness for the purpose of qualifying a household for rental assistance under any federal, State, county, or local

program, including, but not limited to, the Eviction Prevention Program, as revised pursuant to section 4 of P.L.2021, c.188 (C.52:27D-287.10).

c. Notwithstanding any law to the contrary, no person shall sell or assign any civil debt relating to rent that accrued during the covered period.

d. Any amount of rent due and owing either prior to the start of the covered period or after the covered period ends may be pursued in the manner allowed by law for any other landlord-tenant action for rent due outside of the covered period. The provisions of P.L.2021, c.188 (C.52:27D-287.7 et al.) shall not restrict a landlord from pursuing a money judgment action during the covered period, or following the covered period, for unpaid rent due during the covered period. An action by a landlord against a residential tenant to recover unpaid rent which accrued during the covered period may be commenced in the Superior Court, Special Civil Part, regardless of the amount in controversy. The Administrative Director of the Courts may take any administrative action as may be necessary to provide a process for filing these actions in the Superior Court, Special Civil Part.

(1) (a) Notwithstanding the provisions of this section to the contrary, any tenant of a very low-income household, a low-income household, or a moderate-income household shall have continued protections from evictions as those that are applicable during the covered period pursuant to subsections a. and b. of this section for residential rent arrearages incurred from the end of the covered period through December 31, 2021 if the household certifies under penalty of perjury:

(i) the household's income;

(ii) that the household was unable to pay rent due to circumstances arising from the COVID-19 pandemic; and

(iii) that the household has applied for State, county, or local rental assistance programs for which they are eligible.

(b) The certification required by subparagraph (a) of this paragraph shall be made on a form established by the department. The tenant shall provide a copy of the completed form to the landlord, and, if there is a pending eviction action, to the court.

(2) The Administrative Director of the Courts shall provide notice to any residential tenant who is party to a landlord-tenant dispute for nonpayment of rent that includes information regarding tenant protections, income and COVID-19 impact attestation, and rental assistance programs established pursuant to P.L.2021, c.188 (C.52:27D-287.7 et al.).

e. All pending eviction actions alleging nonpayment or habitual late payment of residential rent, or failure to pay a rent increase, that accrued during the covered period shall be dismissed upon certification by the tenant, under

penalty of perjury, in accordance with subparagraph (b) of paragraph (1) of subsection d. of this section that the tenant is a very low-income household, low-income household, moderate-income household, or middle-income household and that the reason for filing was nonpayment or habitual late payment of rent, or failure to pay a rent increase, during the covered period.

f. If a case is dismissed and the landlord is required to subsequently file against the same tenant, the landlord may request that the case be reinstated with the court. In such circumstances the landlord shall pay the fees to serve the amended action, but no court filing fees shall be required.

g. A tenant in such an action shall retain the right to assert any and all counterclaims, setoffs, legal defenses, affirmative defenses, and equitable defenses that would otherwise be available to them.

h. As a condition of receiving any State or federal rental assistance on behalf of a tenant for rent due and owing, a landlord shall waive all late fees assessed for rent unpaid during the period for which assistance is being provided.

i. (1) Consistent with the provisions of 15 U.S.C. s.1681s-2(a)(1)(F), a landlord shall not at any time furnish information about the nonpayment or late payment of residential rent, or failure to pay a rent increase, which accrued during the covered period, or summary dispossess or other court filings or proceedings related to non-payment or late payment of residential rent which accrued during the covered period, directly to another residential landlord, or to a debt collection or credit reporting agency. This paragraph shall not:

(a) apply to a tenant's rent payments that remain due as the result of a payment missed prior to the March 1, 2020, including payments held in escrow before that date; or

(b) limit the ability of a landlord to share information with the landlord's attorney or property management company, or to notice the tenant in compliance with the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-61.1 et seq.).

(2) As a result of any record or information reflecting a tenant's non-payment or late payment of residential rent, or a related court filing, during the covered period, a landlord shall not:

(a) refuse to rent to a prospective tenant of residential rental housing; or

(b) place, or disseminate a residential tenant's information for the purpose of placing, a tenant on a list for the use of other landlords for any purpose.

(3) In addition to a tenant's right to pursue an action seeking injunctive or declaratory relief for a violation of this subsection, the Attorney General, in response to a complaint from a tenant, or on the Attorney General's independent initiative, may bring an action alleging a landlord has violated the provisions of this subsection. Regarding a first violation, the court shall

provide the landlord with an opportunity to correct the violation prior to imposing a penalty. Following the provision of this opportunity to correct any first violation, upon a finding that non-compliance with this subsection has occurred, a court of competent jurisdiction may:

(a) order the non-compliant landlord to retract the report of debt or court filing data provided to the collection or credit reporting agency, bureau, or data collection facility;

(b) impose a fine on the non-compliant landlord, not to exceed $500 for a first violation, $1,000 for a second violation, and $2,500 for each subsequent violation;

(c) order the non-compliant landlord to pay a reasonable counsel fee in connection with a tenant whose debt has been reported to a debt collection or credit reporting agency, bureau, or data collection facility;

(d) provide a copy of the order immediately upon the request of the tenant and at no cost to the tenant;

(e) order the non-compliant landlord to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of the tenant, with an exact copy provided to the tenant at no cost, of the efforts made in that regard; and

(f) if the tenant is able to show actual damages that have resulted from a violation of this section, order the non-compliant landlord to pay an award of damages to the tenant not to exceed 25 percent of the debt attempted to be collected or reported by the non-complaint landlord to the collection or credit reporting agency, bureau, or data collection facility, with a minimum award of $350.

(4) If a landlord furnishes rental payment data to another landlord, collection or credit reporting agency related to the non-payment of rent during the covered period, but before the enactment of P.L.2021, c.188 (C.52:27D-287.7 et al.), the landlord shall not be subject to the penalty provisions of this section, except for an order to retract the report pursuant to paragraph (3) of this subsection.

C.52:27D-287.10 "Eviction Prevention Program."

4. a. The commissioner shall establish an "Eviction Prevention Program" to provide rental relief for New Jersey residents who have been or continue to be unable to pay rent because of financial hardship directly or indirectly incurred because of the COVID-19 pandemic.

b. The commissioner shall administer the program in accordance with the following principles, and, notwithstanding the provisions of the

"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall publish regulatory guidance to that effect:

(1) The Eviction Prevention Program shall be considered a supplement to the COVID-19 Emergency Rental Assistance Program Phase II (CVERAP II) program opened by the department on March 22, 2021. Accordingly, to the greatest extent allowable and feasible, the department should utilize programmatic infrastructure, processes, and vendor contracts established under CVERAP II in order to administer relief under the Eviction Prevention Program;

(2) a household shall be eligible to participate in the program if the household is unable to make residential rental payments which are due and owing pursuant to a valid and enforceable oral or written lease, stipulation of settlement, judgment, order or other type of legally binding agreement, because of a financial hardship sustained as a result of the COVID-19 pandemic;

(3) a household shall be eligible for assistance under this program regardless of whether the household has been served with a summons and complaint for eviction;

(4) a household shall be eligible for assistance if their annualized current income is no more than 120 percent of the area median income; however, the commissioner may establish funding priorities to benefit very low-income and low-income households;

(5) a household shall be eligible for assistance under this program although it may be unlikely for the household to have the ability to pay shelter costs after the period of assistance has ended;

(6) a household may utilize the assistance to pay current rent, accrued rent, and future rent, as determined by the department;

(7) the department shall award grants to be paid on behalf of eligible households to be applied to up to two years of rent, depending upon the person's or household's particular circumstances and available funds in the program. The department shall provide assistance along a continuum based upon the income level of the tenant household, and shall include deep subsidies, shallow subsidies, and flat amounts. Grants representing fewer than two years' worth of rental assistance may be renewed based on a renewed showing of need by the individual or household. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall prepare detailed guidance covering the amount and duration of such grants. Any grants that are provided to cover ongoing rent shall be awarded in accordance with the following guidelines and principles:

(a) for a very low-income household, a deep subsidy may be provided in the amount necessary to limit the household's share of ongoing rent to not more than 30 percent of the household's income;

(b) for a low- or moderate- income household that is not also very low-income, a shallow subsidy may be provided in the amount necessary to limit the household's share of ongoing rent to not more than 30 percent of the household's income, provided, however, that the amount of any such subsidy shall not exceed $800 per month;

(c) for a middle-income household, assistance in the form of a subsidy may be provided in the amount necessary to limit the household's share of ongoing rent to not more than 30 percent of the household's income, provided, however, that the amount of any such subsidy shall not exceed $500 per month.

(8) To qualify for rental assistance under the program, households shall demonstrate that a person in the household:

(a) qualifies for unemployment or has experienced a reduction in household income, incurred significant costs, or experienced a financial hardship, directly or indirectly, to the COVID-19 pandemic;

(b) demonstrates a risk of experiencing homelessness or housing instability;

(c) falls within a household income threshold that establishes eligibility for rental assistance under the program;

(d) has a lack of assets and savings to pay rent arrears or current and future rent;

(e) is a New Jersey resident; and

(f) is obligated to pay rent on a residential dwelling.

A household that has previously received rental assistance under CVERAP II may apply for additional assistance under the Eviction Prevention Program, but any additional grant of assistance shall take into account the rental assistance previously provided pursuant to CVERAP II.

(9) during the course of the payment period, if the department is notified by either the landlord or the program participant that a person or household has begun to experience difficulty paying rent as a result of continued hardships suffered as a result of the COVID-19 pandemic, the household's income and family situation shall be reevaluated in light of the changed conditions, and the person or household shall be placed in a different assistance tier, if necessary, to prevent eviction;

(10) during the course of the payment period, a participant household shall certify the household's current income once every six months, using a brief form to be developed by the department, including any necessary attachments. Beginning the month following receipt of a certification, the department shall increase or decrease the amount of subsidy provided to the

household in accordance with the subsidy category applicable to the most recent reported income, provided that limited non-recurring short term increases in income shall not require a subsidy adjustment; and

(11) during the course of the payment period, if a participant household experiences conditions that violate the implied warranty of habitability, the tenant may so certify those conditions to the department in writing. Based on the tenant's written certification, the department shall have an inspection conducted on the dwelling. Upon confirmation that the violation of the implied warranty of habitability exists, the department shall, after serving the landlord with written notification of such violation and providing the landlord with sufficient opportunity to cure, consider whether and in what amount to withhold rent based on those conditions.

c. Notwithstanding any other law or regulation to the contrary, any revisions to existing program regulations or operating procedures required by this section shall take effect immediately.

d. As soon as possible following the enactment of P.L.2021, c.188 (C.52:27D-287.7 et al.), and no later than August 31, 2021, the department shall implement a comprehensive public information plan to create awareness among eligible tenants of the assistance provided by the program and the provisions of section 3 of P.L.2021, c.188 (C.52:27D-287.9) prohibiting eviction and providing credit protection relating to nonpayment or habitual late payment of rent, or failure to pay a rent increase, during the covered period. This plan shall include but not be limited to public service announcements, information about the program in governmental notices and utility providers billings, notices to landlords as to how to assist their tenants in applying for the program, outreach to underserved populations, including, but not limited to providing all information in both English and Spanish, postings on social media, and any other means likely to ensure that tenants will be aware of the program's existence, tenant protections, tenant attestation, and the provisions of section 3 of P.L.2021, c.188 (C.52:27D-287.9). In addition, the department shall prepare a form notice, which shall include the tenant attestation, in languages including, but not limited to, English and Spanish, describing the program and the provisions of section 3 of P.L.2021, c.188 (C.52:27D-287.9) and shall distribute the notice to landlords for inclusion with any notice or complaint sent to a tenant related to an eviction for nonpayment of rent, habitual late payment, or failure to pay a rent increase, or an action seeking repayment of rental arrears pursuant to P.L.2021, c.188 (C.52:27D-287.7 et al.). The notice shall also be posted on the department's Internet website. Prior to the end of the covered period, the landlord shall post the form notice provided by the department in a conspicuous location within the common area of a multiple dwelling.

e. As soon as possible following the enactment of P.L.2021, c.188 (C.52:27D-287.7 et al.), and no later than August 31, 2021, the commissioner shall start accepting applications for assistance through the Eviction Prevention Program, as revised pursuant to this section.

(1) A program application shall state the monthly rent as established in the lease or other rental agreement, the amount of rent paid by the tenant or third parties, if any, the amount of rent unpaid, the amount of security deposit funding that the tenant has applied against rent pursuant to Executive Order No. 128 of 2020, and any other information required by the department for determining financial need.

(2) An application shall include a certification by the tenant as to:

(a) the number of occupants of the unit;

(b) the tenant household's income; and

(c) if a specific funding source is involved, a certification and any documentation providing the minimum amount of information needed to comply with the requirements of that funding source.

The commissioner shall make the application forms and related verification requirements as simple as possible, shall require the minimum documentation permissible by said funding sources, and shall rely on self-certification and verification to the greatest extent possible. Any certifications made by a tenant under this program shall remain confidential to the maximum extent possible.

f. The program established by this section shall work closely with the Office of Eviction Prevention established by section 5 of P.L.2021, c.188 (C.52:27D-287.11) in order to (1) ensure that tenants receive the maximum assistance for which they are qualified to avoid displacement and retain or obtain decent, affordable, safe and suitable housing; and (2) ensure that all available sources of potential assistance are explored and utilized in order to effectively and efficiently extend the reach and efficacy of the funding provided to this program by the State.

C.52:27D-287.11 "Office of Eviction Prevention."

5. a. Within 60 days of the enactment of P.L.2021, c.188 (C.52:27D-287.7 et al.), the department shall establish an "Office of Eviction Prevention," which shall be responsible for:

(1) identifying all federal, State, local and other sources of financial assistance which are intended or could be used to prevent the eviction of residential tenants, including but not limited to programs which provide both deep and shallow rental subsidies;

(2) becoming knowledgeable with regard to the application process for each such program; and

(3) identifying, and proposing remedies for, the gaps in the overall assistance system, especially in relation to eligibility requirements and the need for addition to, or revision of, subsidy programs so as to provide appropriate assistance of various sorts and in various amounts to households at different income levels.

b. This office shall be responsible for the compilation, publication, and ongoing update of this information, and shall also be responsible for working collaboratively with at least one non-profit, community-based organization in each county so that such organizations are able to provide information regarding the availability of and means of accessing such financial assistance by at-risk tenants.

6. Section 1 of P.L.2020, c.1 (C.2A:18-59.3) is amended to read as follows:

C.2A:18-59.3 Eviction, foreclosure prohibited during certain emergency circumstances.

1. a. (1) Notwithstanding any other law to the contrary, whenever a Public Health Emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.) has been declared by the Governor in response to the COVID-19 pandemic and is in effect, the Governor may issue an executive order to declare that a lessee, tenant, homeowner or any other person shall not be removed from a residential property as the result of an eviction or foreclosure proceeding. This executive order shall remain in effect for no longer than two months following the end of the Public Health Emergency except as provided in paragraphs (2) and (3) of this subsection.

(2) (a) For eviction actions based upon reasons other than nonpayment or habitual late payment of rent, or failure to pay a rent increase, Executive Order No. 106 of 2020 shall expire upon the effective date of P.L.2021, c.188 (C.52:27D-287.7 et al.).

(b) For eviction actions based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, Executive Order No. 106 of 2020 shall expire on August 31, 2021, for any lessee or tenant who is not a very low-income, low-income, or moderate-income household.

(c) For eviction actions based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, Executive Order No. 106 of 2020 shall expire on December 31, 2021, for any lessee or tenant who is a very low-income, low-income, or moderate-income household. Provided, however, that the protections conferred on such tenants by this section shall expire on August 31, 2021, to the extent that such tenants do not comply with

the certification requirements of subsection d. of section 3 of P.L.2021, c.188 (C.52:27D-287.9).

(d) To the extent that it prohibits the removal from a residential property as a result of a foreclosure proceeding of any homeowner, Executive Order No. 106 of 2020 shall expire on November 15, 2021.

(e) The Governor shall have the ability to revoke or modify Executive Order No. 106 of 2020 prior to December 31, 2021 in a manner not inconsistent with the provisions of this section.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, Executive Order No. 106 of 2020 may be extended pursuant to the procedures set forth in subsection b. of section 3 of P.L.2021, c.103, if there is substantial evidence that hospitalizations and deaths due to the COVID-19 pandemic are likely to recur or substantially worsen if an extension is not ordered.

b. Eviction and foreclosure proceedings may be initiated or continued during the time of an executive order issued pursuant to this section, but enforcement of all judgments for possession, warrants of removal, and writs of possession shall be stayed during this period if the Governor has issued an executive order prohibiting certain removals from residential property pursuant to subsection a. of this section, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice.

c. Sheriffs, court officers, and their agents shall refrain from acting to remove individuals from residential properties through the eviction or foreclosure processes during the time of an executive order issued by the Governor prohibiting certain removals from residential property pursuant to subsection a. of this section, unless the court determines on its own motion or motion of the parties that removal is necessary in the interest of justice.

d. As used in this section, "residential property" means any property rented or owned for residential purposes, including, but not limited to, any house, building, mobile home or land in a mobile home park, or tenement leased for residential purposes, but shall not include any hotel, motel, or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health care facility.

7. The following sums are appropriated from the funds provided to the State by the United States government for the purpose of providing relief to tenants affected in any way due to the COVID-19 pandemic: for the "Eviction Prevention Program" the sum of $750,000,000; for the Office of Eviction Prevention the sum of $5,000,000. Of the monies appropriated, the department shall use $500,000,000 as assistance for very-low, low-, moderate-, and middle-income tenants. The remainder may be used as utility assistance. The

department may use up to 2.5 percent of the sums appropriated pursuant to this section for the purpose of funding those actions needed to effectively implement and administer the Eviction Prevention Program, $2,000,000 million of which shall be provided to nonprofit organizations for supporting the education and outreach for this program. Households otherwise ineligible for assistance using federal funds shall be assisted with State funds.

8. Section 14 of P.L.1991 c.177 (C.22A:2-37.1) is amended to read as follows:

C.22A:2-37.1 Special Civil Part of Superior Court, Law Division fees.

14. a. In all civil actions and proceedings in the Special Civil Part of the Superior Court, Law Division, only the following fees shall be charged by the clerk and no service shall be performed until the specified fee has been paid:

(1) Filing of small claim, one defendant	$15.00
Each additional defendant	$ 2.00
(2) Filing of complaint in tenancy, one defendant	$25.00
Each additional defendant	$ 2.00
(3) (a) Filing of complaint or other initial pleading containing a counterclaim, cross-claim or third party complaint in all other civil actions, whether commenced without process or by summons, capias, replevin or attachment where the amount exceeds the small claims monetary limit	$50.00
Each additional defendant	$ 2.00
(b) Filing of complaint or other initial pleading containing a counterclaim, cross-claim or third party complaint in all other civil actions, whether commenced without process or by summons, capias, replevin or attachment where the amount does not exceed the small claims monetary limit	$32.00
Each additional defendant	$ 2.00
(4) Filing of appearance or answer to a complaint or third party complaint in all matters except small claims	$15.00

(5) Service of Process: Fees for service of process, including: summons by mail, each defendant; summons by mail each defendant at place of business or employment with postal instructions to deliver to addressee only; reservice of summons by mail, each defendant; postage for substituted

service of process by the clerk upon the Chief Administrator of the New Jersey Motor Vehicle Commission in addition to the substituted service fee provided below; and wage execution by mail to a federal agency, shall be set by the Administrative Director of the Courts. The fee for service of process shall not exceed the postal rates for ordinary and certified mail, return receipt requested, and may include an administrative fee that shall not exceed $0.25 for each defendant served with process by mail. The total service of process fee shall be rounded upward to the nearest dollar. For the purposes of this paragraph, service of process means the simultaneous mailing by ordinary and certified mail, return receipt requested, to the defendant at the address provided by the plaintiff.

Reservice of summons or other original process by court officer, one defendant plus mileage	$ 3.00
Each additional defendant plus mileage	$ 2.00
Substituted service of process by the clerk upon the Chief Administrator of the New Jersey Motor Vehicle Commission	$10.00

(6) For serving or executing any process, writ, order, execution, notice, or warrant $ 7.00

(7) Jury of six persons $50.00

(8) Warrant for possession in tenancy $15.00

(9) Warrant to arrest, commitment or writ of capias ad respondendum, each defendant $15.00

(10) Writ of execution or an order in the nature of execution, writs of replevin and attachment issued subsequent to summons $ 5.00

(11) For advertising property under execution or any order $10.00

(12) For selling property under execution or any order $10.00

(13) Exemplified copy of judgment

(two pages)	$ 5.00
each additional page	$ 1.00

b. (Deleted by amendment, P.L.2002, c.34).

c. (Deleted by amendment, P.L.2002, c.34).

d. (Deleted by amendment, P.L.2009, c.32).

9. Section 15 of P.L.1991, c.177 (C.22A:2-37.2) is amended to read as follows:

C.22A:2-37.2 Fees to officers designated by Assignment Judge to serve process.

15. a. From the fees set forth in section 14 of P.L.1991, c.177 (C.22A:2-37.1), the clerk of the Special Civil Part of the Superior Court, Law Division, shall pay to officers designated by the Assignment Judge to serve process the following fees:

(1) Serving summons, notice or third party complaint on one defendant	$ 3.00
on every additional defendant	$ 2.00
(2) Reserving summons or other original process on any defendant	$ 3.00
(3) Warrant to arrest, capias, or commitment, for each defendant served	$15.00
(4) Serving writ and summons in replevin, taking bond and any inventory, against one defendant	$ 6.00
on every additional defendant	$ 2.00
(5) Serving writ in replevin when issued subsequent to service of summons, against one defendant	$ 5.00
on every additional defendant	$ 2.00
(6) Serving order for possession in replevin	$ 4.00
(7) Serving writ of attachment and making inventory, one defendant	$ 4.00
on every additional defendant	$ 2.00
(8) Serving and executing warrant for possession in tenancy	$10.00
(9) Every execution, or any order in the nature of an execution, on a judgment, for each defendant	$ 2.00

b. For serving or executing any process, writ, order, execution, notice or warrant $ 7.00

c. In addition to the foregoing, the following fees for officers of the Special Civil Part shall be taxed in the costs and collected on execution, writ of attachment or order in the nature of any execution on any final judgment, or on a valid and subsisting levy of an execution or attachment which may be the effective cause in producing payment or settlement of a judgment or attachment:

(1) For advertising property under execution or any order	$10.00
(2) For selling property under execution or any order	$10.00
(3) On every dollar collected on execution, writ of attachment, or any order,	$ 0.10.

(4) In the event a judgment is vacated for any reason after a court officer has made a levy and thereafter the judgment is reinstated or the case is settled, the dollarage due the court officer on payment of the judgment amount or settlement amount again shall be taxed in the costs and collected.

d. In addition to the foregoing, the clerk of the Special Civil Part shall pay to officers designated by the Assignment Judge to serve wage executions on a federal agency an amount equal to the fee set by either the Administrative Director of the Courts pursuant to paragraph (5) of subsection a. of section 14 of P.L.1991, c.177 (C.22A:2-37.1) or set pursuant to subsection d. of that section, whichever then may be applicable, for each wage execution served.

10. This act shall take effect immediately.

Approved August 4, 2021.

CHAPTER 189

AN ACT concerning the confidentiality of court records of certain eviction actions initiated during the time of the COVID-19 pandemic.

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

C.2A:42-144 Definitions.

1. As used in this act:

"Emergency period" means the period during which a public health emergency exists as declared by the Governor in Executive Order No. 103 of 2020, as extended, and the 60 days following the conclusion of this period.

"Emergency period nonpayment court record" means any record of a landlord-tenant action filed with a court arising as a result of nonpayment or habitually late payment of rent during the emergency period, including but not limited to:

a. any information maintained by a court in any form in connection with a landlord-tenant case or proceeding, including but not limited to pleadings, evidentiary exhibits, indices, calendars, and dockets;

b. any order, judgment, or warrant related to a landlord-tenant action;

c. any official transcript or recording of a public landlord-tenant proceeding, in any form;

d. any information in a computerized case management system created or prepared by the court in connection with a landlord-tenant action; and

e. any record provided to, made, or maintained by a judicial officer.

C.2A:42-145 Confidentiality, unavailability to public.

2. An emergency period nonpayment court record shall be confidential and unavailable to the public.

C.2A:42-146 Actions to ensure records kept confidential, unavailable to public.

3. a. Any New Jersey public entity that maintains a written or automated record or file of emergency period nonpayment court records shall take appropriate actions to ensure that these records are kept confidential and unavailable to the public.

b. This act shall not prohibit the courts or other New Jersey public entities from retaining or distributing demographic information from emergency period nonpayment court records for the purpose of understanding the effect of the COVID-19 pandemic on evictions, or for other public purposes, so long as personally-identifiable information on persons who are the subject of emergency period nonpayment court records remains confidential.

c. The Supreme Court of New Jersey may adopt rules, and the Administrative Director of the Courts may issue directives and guidelines, to implement the purposes of this act.

C.2A:42-147 Evaluation of prospective tenant.

4. a. When evaluating a prospective tenant, a landlord shall not consider an emergency period nonpayment court record.

b. A person, tenant screening service, or other entity, shall not knowingly provide court filing information or information contained in an emergency period nonpayment court record to a landlord or other entity involved in the rental of a dwelling unit.

c. No later than 30 days following the effective date of this act, any person or entity that collects, distributes, and sells court filing information

shall update and remove any emergency period nonpayment eviction records that are restricted from public access pursuant to this act.

C.2A:42-148 Violations, penalties.

5. Any person who knowingly violates section 4 of this act by revealing to the public an emergency period nonpayment court record, by considering an emergency period nonpayment court record in the evaluation of a prospective tenant, or by failing to remove emergency period nonpayment eviction records restricted from public access, shall, in addition to any other penalty provided by law, be liable for a penalty of not less than $1,000 for the first offense, and not less than $5,000 for the second and each subsequent offense, plus reasonable attorney fees. This penalty shall be exclusive of, and in addition to, any moneys or property ordered to be paid or restored to any person whose information has been wrongly considered or distributed. A penalty imposed pursuant to this section shall be enforceable by the Attorney General in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

6. This act shall take effect on the first day of the fourth month next following enactment and shall apply to landlord-tenant actions filed with a court of this State between March 9, 2020 and the end of the emergency period except that sections 4 and 5 shall apply prospectively only.

Approved August 4, 2021.

CHAPTER 190

AN ACT concerning long-term care facilities and amending P.L.2019, c.243.

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

1. Section 1 of P.L.2019, c.243 (C.26:2H-12.87) is amended to read as follows:

C.26:2H-12.87 Definitions, requirements for certain facilities relative to outbreak response plans.

1. a. As used in this section:

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism to confine their care to one area and prevent contact with other patients.

"Department" means the Department of Health.

"Endemic level" means the usual level of given disease in a geographic area.

"Isolating" means the process of separating sick, contagious persons from those who are not sick.

"Long-term care facility" means a nursing home, licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Outbreak" means any unusual occurrence of disease or any disease above background or endemic levels.

b. Notwithstanding any provision of law to the contrary, as a condition of licensure, the department shall require long-term care facilities to develop an outbreak response plan within 180 days after the effective date of this act, which plan shall be customized to the facility, based upon national standards and developed in consultation with the facility's infection prevention and control committee. At a minimum, each facility's plan shall include, but shall not be limited to:

(1) a protocol for isolating and cohorting infected and at-risk residents in the event of an outbreak of a contagious disease until the cessation of the outbreak;

(2) clear policies for the notification of residents, residents' families, visitors, and staff in the event of an outbreak of a contagious disease at a facility;

(3) information on the availability of laboratory testing, protocols for assessing whether facility visitors are ill, protocols to require ill staff to not present at the facility for work duties, and processes for implementing evidence-based outbreak response measures;

(4) policies to conduct routine monitoring of residents and staff to quickly identify signs of a communicable disease that could develop into an outbreak;

(5) policies for reporting outbreaks to public health officials in accordance with applicable laws and regulations; and

(6) a documented strategy for securing more staff in the event of an outbreak of infectious disease among staff or another emergent or non-emergent situation affecting staffing levels at the facility during an outbreak of an infectious disease.

c. (1) In addition to the requirements set forth in subsection b. of this section, the department shall require long-term care facilities to include in the facility's outbreak response plan written policies to meet staffing, training, and facility demands during an infectious disease outbreak to successfully implement the outbreak response plan, including employing the following individuals:

(a) an individual who meets the requirements of subparagraph (b) of paragraph (1) of subsection e. of this section; and

(b) a physician who meets the requirements of subparagraph (a) of paragraph (1) of subsection e. of this section.

(2) Each nursing home that has not previously submitted an outbreak response plan to the department shall submit an outbreak response plan to the department for verification as provided in paragraph (3) of this subsection.

(3) The department shall verify that the outbreak response plans submitted by nursing homes are in compliance with the requirements of subsection b. of this section and with the requirements of paragraph (1) of this subsection.

(4) The department shall have the authority to require any long-term care facility to revise its outbreak response plan as needed to come into compliance with the requirements of subsection b. of this section and the requirements of paragraph (1) of this subsection. The department may assess civil penalties or take other administrative actions against a facility in the event the department determines the facility is not in compliance with the requirements of this section.

(5) Each long term-care facility shall perform an annual training exercise to ensure its outbreak response plan is practical, comprehensive, and ensures the safety and well-being of residents and staff. The annual training exercise shall include, but shall not be limited to, coordinating with emergency medical services, hospitals, and fire and police departments. Each long-term care facility shall record a summary of the effectiveness of the training exercise and any need for future modifications to the training exercise.

d. (1) Each long-term care facility shall review and, if necessary, update its outbreak response plan on an annual basis.

(2) If a nursing home makes any material changes to its outbreak response plan, the nursing home shall, within 30 days after completing the material change, submit to the department an updated outbreak response plan. The department shall, upon receiving an updated outbreak response plan, verify that the plan is compliant with the requirements of subsections b. and c. of this section.

e. (1) The department shall require each long-term care facility to establish an infection prevention and control committee and assign to the facility's infection prevention and control committee:

(a) a physician who has completed an infectious disease fellowship, who shall be employed on a full-time or part time basis or contracted with on a consultative basis; and

(b) an individual designated as the infection preventionist who;

(i) has primary professional training in medicine, nursing, medical technology, microbiology, epidemiology, or a related field;

(ii) is qualified by education, training, and at least five years of infection control experience, or by certification in infection control by the Certification Board of Infection Control and Epidemiology;

(iii) is employed by the facility consistent with the requirements of subsection f. of this section; and

(iv) has completed specialized training in infection prevention and control.

(2) The infection prevention and control committee shall meet on at least a quarterly basis. The physician assigned to the committee pursuant to this subsection shall attend at least half of the meetings held by the infection prevention and control committee, and the infection preventionist assigned to the committee pursuant to this subsection shall attend all of the meetings held by the infection prevention and control committee.

f. (1) An infection preventionist assigned to a long-term care facility's infection prevention and control committee pursuant to subsection e. of this section shall be a managerial employee and shall be employed:

(a) in the case of a long-term care facility with a licensed bed capacity equal to 100 or fewer beds, on at least a part time basis; and

(b) in the case of a long-term care facility with a licensed bed capacity equal to more than 100 beds or that provides on-site hemodialysis services, on a full-time basis.

(2) The infection preventionist shall report directly to the administrator of the long-term care facility and shall provide the administrator quarterly reports detailing the effectiveness of the long-term care facility's infection prevention policies.

(3) The infection preventionist shall be responsible for:

(a) contributing to the development of policies, procedures, and a training curriculum for long-term care facility staff based on best practices and clinical expertise;

(b) monitoring the implementation of infection prevention and control policies and recommending disciplinary measures for staff who routinely violate those policies; and

(c) assessing the facility's infection prevention and control program by conducting internal quality improvement audits.

(4) A long-term facility that is unable to hire an infection preventionist on a full-time or part-time basis may contract with an infection preventionist on a consultative basis until February 1, 2022. A long-term care facility shall provide notice to the Department of Health, within 60 days after the effective date of P.L.2021, c.190 (C.26:2H-87.3 et al.), if the facility is unable to hire an infection preventionist on a full-time or part-time basis and if the facility has contracted with an infection preventionist on a consultative basis. A long-term care facility

shall hire an infection preventionist on a full-time or part-time basis after February 1, 2022, except that the Department of Health may waive this requirement if a long-term care facility is unable to hire an infection preventionist folllowing the facility's good faith efforts to hire an infection preventionist.

g. Each long-term care facility shall publish the facility's outbreak response plan on its Internet website if the facility maintains an Internet website, distribute copies of the plan to residents and their families upon admission to the facility, and provide notice to residents and their families any time the facility makes material changes to its plan. Each long-term care facility shall make its outbreak response plan available upon request if the facility does not maintain an Internet website.

h. Each long-term care facility shall annually perform preparedness drills to evaluate the effectiveness of its outbreak response plan.

C.26:2H-87.3 Definitions; conditions for licensure.

2. a. As used in this section:

"Assisted living facility" means an assisted living residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism to confine their care to one area and prevent contact with other patients.

"Comprehensive personal care home" means a comprehensive personal care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Dementia care home" means a dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Department" means the Department of Health.

"Endemic level" means the usual level of given disease in a geographic area.

"Facility" means an assisted living facility, a comprehensive personal care home, a dementia care home, or a residential health care facility.

"Isolating" means the process of separating sick, contagious persons from those who are not sick.

"Outbreak" means any unusual occurrence of disease or any disease above background or endemic levels.

"Residential health care facility" means a residential health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

b. Notwithstanding any provision of law to the contrary, as a condition of licensure, the department shall require facilities to develop an outbreak response plan within 180 days after the effective date of this act, which plan shall be customized to the facility, based upon national standards and developed in

consultation with the facility's infection prevention and control committee. At a minimum, each facility's plan shall include, but shall not be limited to:

(1) a protocol for isolating and cohorting infected and at-risk residents in the event of an outbreak of a contagious disease until the cessation of the outbreak;

(2) clear policies for the notification of residents, residents' families, visitors, and staff in the event of an outbreak of a contagious disease at a facility;

(3) information on the availability of laboratory testing, protocols for assessing whether facility visitors are ill, protocols to require ill staff to not present at the facility for work duties, and processes for implementing evidence-based outbreak response measures;

(4) policies to conduct routine monitoring of residents and staff to quickly identify signs of a communicable disease that could develop into an outbreak;

(5) policies for reporting outbreaks to public health officials in accordance with applicable laws and regulations; and

(6) a documented strategy for securing more staff in the event of an outbreak of infectious disease among staff or another emergent or non-emergent situation affecting staffing levels at the facility during an outbreak of an infectious disease.

c. (1) In addition to the requirements set forth in subsection b. of this section, the department shall require a facility to include in the facility's outbreak response plan written policies to meet staffing, training, and facility demands during an infectious disease outbreak to successfully implement the outbreak response plan, including employing an individual who meets the requirements of paragraph (1) of subsection e. of this section.

(2) Each facility that has not previously submitted an outbreak response plan to the department shall submit an outbreak response plan to the department for verification as provided in paragraph (3) of this subsection.

(3) The department shall verify that the outbreak response plans submitted by facilities are in compliance with the requirements of subsection b. of this section and with the requirements of paragraph (1) of this subsection.

(4) The department shall have the authority to require any facility to revise its outbreak response plan as needed to come into compliance with the requirements of subsection b. of this section and the requirements of paragraph (1) of this subsection. The department may assess civil penalties or take other administrative actions against a facility in the event the department determines the facility is not in compliance with the requirements of this section.

d. (1) Each facility shall review and, if necessary, update its outbreak response plan on an annual basis.

(2) If a facility makes any material changes to its outbreak response plan, the facility shall, within 30 days after completing the material change, submit to the department an updated outbreak response plan. The department shall, upon receiving an updated outbreak response plan, verify that the plan is compliant with the requirements of subsections b. and c. of this section.

e. (1) The department shall require each facility to establish an infection prevention and control committee and assign to the facility's infection prevention and control committee an individual designated as the infection preventionist who is a licensed health care provider and who possesses five years of experience in infection control, or an individual who has successfully completed an online infection prevention course through the federal Centers for Disease Control and Prevention or the American Health Care Association course with a valid certificate therefrom.

(2) The infection prevention and control committee shall meet on at least a quarterly basis. The infection preventionist assigned to the committee pursuant to this subsection shall attend all of the meetings held by the infection prevention and control committee.

f. (1) An infection preventionist assigned to a facility's infection prevention and control committee pursuant to subsection e. of this section shall be a managerial employee and:

(a) in the case of a facility with multiple locations, the facility shall be permitted to employ one full-time infection preventionist who shall be responsible for up to five locations; and

(b) in the case of a facility located in the same building or on the same property as a nursing home or a facility that is located within a continuing care retirement community, the facility shall be permitted to hire one full-time infection control preventionist who will be responsible for the facilityand the nursing home or for the facility and the continuing care retirement community.

(2) The infection preventionist shall report directly to the administrator of the facility and shall provide the administrator quarterly reports detailing the effectiveness of the facility's infection prevention policies.

(3) The infection preventionist shall be responsible for:

(a) contributing to the development of policies, procedures, and a training curriculum for facility staff based on best practices and clinical expertise; (b) monitoring the implementation of infection prevention and control policies and recommending disciplinary measures for staff who routinely violate those policies;

(c) assessing the facility's infection prevention and control program by conducting internal quality improvement audits;

(d) directly training all employees in infection prevention at such intervals as determined by the department.

(4) A facility that is unable to hire an infection preventionist on a full-time or part-time basis may contract with an infection preventionist on a consultative basis until February 1, 2022. A facility shall provide notice to the Department of Health, within 60 days after the effective date of P.L.2021, c.190 (C.26:2H-87.3 et al.), if the facility is unable to hire an infection preventionist on a full-time or part-time basis and if the facility has contracted with an infection preventionist on a consultative basis. A facility shall hire an infection preventionist on a full-time or part-time basis after February 1, 2022, except that the Department of Health may waive this requirement if a facility is unable to hire an infection preventionist following the facility's good faith efforts to hire an infection preventionist.

g. Each facility shall publish the facility's outbreak response plan on its Internet website if the facility maintains an Internet website, distribute copies of the plan to residents and their families upon admission to the facility, and provide notice to residents and their families any time the facility makes material changes to its plan. Each facility shall make its outbreak response plan available upon request if the facility does not maintain an Internet website.

h. Each facility shall annually perform preparedness drills to evaluate the effectiveness of its outbreak response plan.

i. Each facility shall designate employees who receive special training in infection control and who shall be representative of the facility's staff, including certified nurse aides, licensed practical nurses, and registered nurses. Such employees shall assist training staff, distribute infection control information, assist with infection control implementation and policy development, and participate in quarterly infection control training exercises to maintain competency in using personal protection equipment.

3. This act shall take effect immediately.

Approved August 5, 2021.

CHAPTER 191

AN ACT concerning municipal courts, and supplementing Title 2B of the New Jersey Statutes.

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

C.2B:12-34 Regional municipal court pilot program.

1. a. The Administrative Office of the Courts shall establish a regional municipal court pilot program in no fewer than two qualified counties and no fewer than five municipalities in each county. The pilot program shall take place only in municipalities and counties that apply to the Administrative Office of the Courts to participate. The Administrative Director of the Courts in consultation with the assignment judges shall select appropriate counties and municipalities from a list of those counties and municipalities that have applied for the program for the implementation of the program.

b. Any qualified county that has considered municipal court consolidation on a county-wide basis prior to the enactment of P.L.2021, c.191 (C.2B:12-34 et seq.) may submit that information to the Administrative Director of the Courts and that county shall be included in the pilot program.

c. To qualify for selection under this section, a county shall have a population of less than 300,000 and a population density of less than 500 people per square mile according to the 2010 decennial census. If one county in a multi-county vicinage qualifies, all the counties in the vicinage qualify. The population and population density figures set forth in subsection e. of N.J.S. 2B:12-1 shall not apply to any regional municipal court in any county participating in this pilot program, including any county included pursuant to subsection b. of this section.

C.2B:12-35 Jurisdiction of regional municipal court.

2. A regional municipal court shall have jurisdiction over all matters falling within the jurisdiction of the municipal courts in the pilot program. All complaints issued in the county by the State Police or any Statewide law enforcement agency, or by any county law enforcement agency, any county code enforcement entity, or by any other non-municipal law enforcement agency, shall also fall within the jurisdiction of the regional municipal court, consistent with the provisions of N.J.S.2B:12-17 and N.J.S.2B:12-18.

C.2B:12-36 Disposition of fines, costs collected.

3. a. Notwithstanding any other law to the contrary, fines and costs collected by the regional municipal court shall be retained by the regional municipal court on a pro rata basis equal to the costs associated with management, administration, operation, judge and staff salaries, and technology for the regional municipal court. The remainder of the fines and

costs collected by the regional municipal court shall be distributed in accordance with N.J.S.22A:3-4, R.S.39:5-40, R.S.39:5-41, and subsection c. of section 3 of P.L.1979, c.396 (C.2C:46-4).

b. A county participating in the pilot program may consider determining budgets for participating municipalities in that county by way of an assessment based on each participating municipality's equalized value as determined by the appropriate county board of taxation.

C.2B:12-37 Judicial appointments.

4. Judicial appointments to the regional municipal court shall be made in accordance with the provisions of Article VI, Section VI, paragraph 1 of the State Constitution. Municipal court judges sitting in the municipal courts selected under section 1 of this act may be considered for appointment to the regional municipal court. The assignment judge of the vicinage shall have the authority to make a temporary appointment in the event of a vacancy.

C.2B:12-38 Certain regional municipal courts to begin hearing cases.

5. Any regional municipal court established in a county that is included in the pilot program pursuant to subsection b. of section 1 of P.L.2021, c.191 (C.2B:12-34), because that qualified county considered municipal court consolidation on a county-wide basis prior to the enactment of P.L.2021, c.191 (C.2B:12-34 et seq.) and submitted information on that previous consideration to the Administrative Director of the Courts, shall begin hearing cases no later than January 1, 2022, and any regional municipal court in any other qualified county selected by the Administrative Director of the Courts for the pilot program shall begin hearing cases no later than one year following enactment.

6. This act shall take effect 60 days after enactment except the Administrative Director of the Courts may take any anticipatory action in advance as the director deems necessary for the implementation of the pilot program.

Approved August 5, 2021.

CHAPTER 192

AN ACT concerning standby guardianship and amending various parts of the statutory law.

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

1. N.J.S.3B:12-39 is amended to read as follows:

Delegation of parent's, custodian's, or guardian's powers regarding child's or minor ward's care, custody or property; limitations.

3B:12-39. Delegation of parent's, custodian's, or guardian's powers regarding child's or minor ward's care, custody or property; limitations.

a. A parent, other than where sole or full legal and physical custody of the parent's minor child has been awarded to another by a court of competent jurisdiction, with the consent of the other parent, unless the other parent is deceased, incapacitated, or unavailable, or a custodian of a minor child who is not that child's parent, with the consent of a parent with whom the custodian shares legal custody, unless that parent is deceased, incapacitated, or unavailable, or a guardian of a minor child or a minor ward may:

by a properly executed power of attorney, delegate to another person any of the parent's, custodian's, or guardian's powers regarding care, custody, or property of the minor child or minor ward.

b. A delegation made under this section shall: (1) expire one year from the effective date of the properly executed power of attorney, provided, however, that the parent, custodian, or guardian shall be permitted to renew the delegation for additional one-year periods using the same process as applies to the original delegation, and may be extended for an additional six months in exigent circumstances; and

(2) may become effective upon proper execution of the power of attorney or upon another activating event specified in a properly executed power of attorney.

c. A parent, custodian, or guardian may revoke a delegation made under this section by notifying the attorney-in-fact named in the power of attorney orally, in writing, or by any other act evidencing a specific intent to revoke the power of attorney.

d. A parent, custodian, or guardian may delegate under this section only such powers as the parent, custodian, or guardian possesses.

e. A delegation made under this section shall not deprive the parent, custodian, or guardian of the parent's, custodian's, or guardian's existing powers regarding care, custody, or property of the minor child or minor ward, but the parent, custodian, or guardian shall exercise such powers, insofar as the parent, custodian, or guardian is able, concurrently with the attorney-in-fact named in the power of attorney. In the event of a disagreement between

a parent, custodian, or guardian and the attorney-in-fact regarding the care, custody, or property of the minor child or minor ward, the decision of the parent, custodian, or guardian shall control.

f. Nothing in this section shall be construed to involuntarily deprive any parent of parental rights.

g. As used in this section:

"Activating event" means an event stated in the delegation that empowers the attorney-in-fact to assume the duties of the office. Activating events include, but are not limited to: the execution of a power of attorney pursuant to this section; the parent's, custodian's, or guardian's attending physician concludes that the parent, custodian, or guardian is incapacitated; the parent's, custodian's, or guardian's attending physician concludes that the parent, custodian, or guardian is debilitated; the parent, custodian, or guardian is subject to immigration administrative action; the parent, custodian, or guardian is subject to criminal proceedings; the parent, custodian, or guardian is in military service; or the death of the parent, custodian, or guardian in circumstances in which no testamentary guardianship or other more permanent care arrangement has been made for the minor child or minor ward, provided, however, that in no case shall a power of attorney activated by the death of a parent, guardian, or custodian extend beyond the year that the power of attorney is in effect.

"Attending physician" means the physician who has primary responsibility for the treatment and care for the parent, custodian, or guardian making the delegation. When more than one physician shares this responsibility, or when a physician is acting on the primary physician's behalf, any such physician may act as the attending physician pursuant to this section. When no physician has this responsibility, a physician who is familiar with the parent's, custodian's, or legal guardian's medical condition may act as the attending physician.

"Attorney-in-fact" means the person to whom a parent, custodian, or guardian delegates powers under a properly executed power of attorney pursuant to this section.

"Consent" means written consent of a non-delegating parent as evidenced by that person's signature on the power of attorney, in the presence of two witnesses.

"Criminal proceeding" means any incarceration on criminal charges, including pending charges, or a criminal sentence that separates a parent, custodian, or guardian from a minor child or minor ward.

"Custodian" means a person, other than a parent, who has been granted legal and physical custody of a minor child by a court of competent jurisdiction.

"Debilitated" means the parent, custodian, or guardian has a chronic and substantial inability, as a result of a physically debilitating illness, disease, or injury, to care for the parent's, custodian's, or guardian's minor child or minor ward.

"Exigent circumstances" means circumstances that render the parent, custodian, or guardian who makes a delegation unable to execute a renewal of the delegation for reasons including, but not limited to, that the parent, custodian, or guardian is debilitated or incapacitated, and that would cause imminent harm or threatened harm to the well-being of the parent's, custodian's, or guardian's minor child or minor ward without such renewal.

"Guardian" means a person who has qualified as a guardian of the person of a minor pursuant to court appointment, including, but not limited to, a kinship legal guardian, but does not mean a person who is serving only as a guardian ad litem.

"Immigration administrative action" means any immigration proceeding, enforcement action, detention, removal, or deportation that separates a parent, custodian, or guardian from a minor child or minor ward.

"Incapacitated" means the parent, custodian, or guardian is impaired by reason of mental illness, intellectual disability, physical illness or disability, chronic use of drugs, chronic alcoholism, or other cause, except minority, to the extent that the person lacks sufficient capacity to manage the affairs of and provide care for the parent's, custodian's, or guardian's minor child or minor ward, and a consequent inability to make these decisions.

"Military service" means duty by any person in the active military service of the United States or the active military service of the State, including in the National Guard or State Guard, that separates a parent, custodian, or guardian from a minor child or minor ward.

"Minor child" means a child under the age of 18 years but excludes a child residing in a placement funded or approved by the Division of Child Protection and Permanency in the Department of Children and Families pursuant to either a voluntary placement agreement or court order.

"Minor ward" means a minor child for whom a guardian is appointed.

"Parent" means the biological or adoptive parent of a minor child.

"Unavailable" means: a parent who has not been involved in raising or financially supporting the child for two years or a third of the life of the child, whichever is less, immediately preceding the delegation made pursuant to this section; a parent whose identity or whereabouts are unknown; or a parent who cannot be reached after diligent efforts.

h. A delegation made under this section may, but need not, be in the following form:

POWER OF ATTORNEY AND DELEGATION OF AUTHORITY BY PARENT, CUSTODIAN, OR GUARDIAN CONCERNING MINOR CHILD(REN) OR MINOR WARD(S) PURSUANT TO N.J.S. 3B:12-39

This power of attorney is made between (name(s), of parent(s), custodian(s), or guardian(s)), residing at (address(es) of parent(s), custodian(s), or guardian(s)) and reachable at (telephone number(s) of parent(s), custodian(s), or guardian(s)) and (name of alternative caregiver), referred to here as "attorney-in-fact," residing at (home address of alternative caregiver) and reachable at (telephone number of alternative caregiver).

If a parent is signing, the other parent must generally also sign below to show consent. Similarly, if a custodian who shares legal custody with a parent is signing, the parent who shares legal custody must generally also sign below to show consent. If such parent does not sign below, please check off reason(s) to explain why:

___Such parent is deceased.

___By order of a court of competent jurisdiction, such parent retains neither legal nor physical custody of child(ren).

___Such parent is mentally or physically unable to give consent.

___Such parent has not been involved in raising or financially supporting child(ren) for two years or a third of the life of the child(ren), whichever is less, immediately preceding the date of the latest signature below.

___Identity or whereabouts of such parent are unknown to me.

___Despite diligent efforts described below, I was unable to reach such parent.

Diligent efforts included:

_____

_____

_____

_____

_____

___Other

I/we appoint said attorney-in-fact, pursuant to N.J.S.3B:12-39, and delegate to said attorney-in-fact the following powers, all of which I/we possess, concerning the care, custody, and/or property of my/our minor child/minor ward, (name of minor child/minor ward), born on _____ day of _____, 20___ (add other minor children's or minor wards' names and birthdates as appropriate)

___Care-Giving. The attorney-in-fact shall have temporary care-giving authority for the minor child(ren)/minor ward(s), until such time as the minor child(ren)/minor ward(s) is/are returned to my/our physical custody, or his/her/their custody status is altered by a federal, state, or local agency; or changed by a court of law.

___Well-Being. The attorney-in-fact shall have the power to provide for the physical and mental well-being of the minor child(ren)/minor ward(s), including, but not limited to, providing food and shelter.

___Education. The attorney-in-fact shall have the authority to enroll the minor child(ren)/minor ward(s) in the appropriate educational institutions; obtain access to his/her/their school records; authorize his/her/their participation in school activities; and make any and all decisions related to his/her/their education, including, but not limited to, those related to special education.

___Health Care. The attorney-in-fact shall have the authority, to the same extent that a parent/custodian/guardian would have the authority, to make medical, dental, and mental health decisions; to sign documents, waivers, and releases required by a hospital or physician; to access medical, dental, or mental health records concerning the minor child(ren)/minor ward(s); to authorize the minor child(ren)'/ minor ward(s)' admission to or discharge from any hospital or medical care facility; to consult with any health care provider; to consent to the provision, withholding, modification, or withdrawal of any health care procedure; and to make other decisions related to the health care needs of the minor child(ren)/minor ward(s).

____Travel. The attorney-in-fact shall have the authority to make travel arrangements on behalf of the minor child(ren)/ minor ward(s) for destinations both inside and outside of the United States by air and/or ground transportation; to accompany the minor child(ren)/minor ward(s) on any such trips; and to make any and all related arrangements on behalf of the minor

child(ren)/minor ward(s), including, but not limited to, hotel accommodations.

____Financial Interests. The attorney-in-fact may handle any and all financial affairs and any and all personal and legal matters concerning the minor child(ren)/minor ward(s).

____All Other Powers. The attorney-in-fact shall have the authority to handle and engage in any and all other matters relating to the care, custody, and property of the minor child(ren)/minor ward(s) which are permitted pursuant to applicable State law.

By this delegation, I/we provide that the attorney-in-fact's authority shall take effect upon the following "activating event(s)" (check all that apply):

___The execution of this document on the latest date below; or

___My attending physician concludes that I am incapacitated, and thus unable to care for my minor child(ren)/minor ward(s); or

___My attending physician concludes that I am physically debilitated, and thus unable to care for my minor child(ren)/minor ward(s); or

___I am detained in immigration detention, removed, or deported; or

___I am incarcerated based on criminal charges, including pending charges, or conviction; or

___I am deployed in military service; or

___Upon my death, if I have made no more permanent care arrangements for my minor child or minor ward; or

___Other (specify reason).

In the event that the person designated above is unable or unwilling to act as attorney-in-fact to my minor child(ren)/minor ward(s), I hereby name (name, address, and telephone number of alternate attorney-in-fact), as alternate attorney-in-fact of my minor child(ren)/minor ward(s).

I/we understand that this delegation will expire one year from the execution of this document on the latest date below, and that the authority of the attorney-in-

fact, if any, will cease, unless by that date (i) I renew this delegation, by the same process applicable to the original delegation; (ii) a court of competent jurisdiction appoints a custodian, guardian, or standby guardian for the minor child(ren)/minor ward(s); or (iii) exigent circumstances make it impossible for me to renew this delegation, and I have not made alternative care arrangements for my minor child(ren)/minor ward(s).

I/we hereby authorize that the attorney-in-fact as set forth above shall be provided with a copy of my/our attending physician's statement(s), if applicable.

In the event that an activating event occurs and a power of attorney is activated pursuant to this statement, I declare that it is my intention to retain full parental rights to the extent consistent with my condition and circumstances and, further, that I retain the authority to revoke the power of attorney consistent with my rights herein at any time.

_____

Parent's/Custodian's/Guardian's Signature:

_____

Date:

_____

Signature of other parent or of parent who shares legal custody with a custodian who signed above:

_____

Date:

_____

Witness's Signature:

_____

Address:

_____

Date:

_____

Witness's Signature:

_____

Address:

_____

Date:

2. Section 2 of P.L.1995, c.76 (C.3B:12-68) is amended to read as follows:

C.3B:12-68 Findings, declarations.

2. The Legislature finds and declares that there is an imperative need to create an expeditious manner of establishing a guardianship known as a standby guardianship, in order to enable a parent, custodian, or guardian who cannot currently, or who anticipates being unable to, provide adequate care to a minor child or minor ward, to make plans for the permanent future care or the interim care of a minor child or minor ward without terminating parental or legal rights. The Legislature further finds that current law does not adequately address the needs of parents, custodians, or guardians who are facing separation from their minor children or minor wards because of illness, immigration administrative action, criminal proceedings, military service, or other reasons, and who desire to make plans for the future care of their minor children or minor wards without terminating parental or legal rights.

3. Section 3 of P.L.1995, c.76 (C.3B:12-69) is amended to read as follows:

C.3B:12-69 Definitions.

3. As used in P.L.1995, c.76 (C.3B:12-67 et seq.):

"Activating event" means an event stated in the petition or decree that empowers the standby guardian to assume the duties of the office. Activating events include, but are not limited to: the appointment of a standby guardian by a court of competent jurisdiction; the parent's, custodian's, or guardian's attending physician concludes that the parent, custodian, or guardian is incapacitated; the parent's, custodian's, or guardian's attending physician concludes that the parent, custodian, or guardian is debilitated; the parent, custodian, or guardian is subject to immigration administrative action; the parent, custodian, or guardian is subject to criminal proceedings; the parent, custodian, or guardian is in military service; or the death of the parent, custodian, or guardian in circumstances in which no testamentary guardianship or other more permanent care arrangement has been made for the minor child or minor ward; provided, however, that in no case shall a power of attorney triggered by the death of a parent, guardian, or custodian extend beyond the year that the power of attorney is in effect.

"Appointed standby guardian" means a person appointed pursuant to section 6 of P.L.1995, c.76 (C.3B:12-72) to assume the duties of guardian over the person and, when applicable, the property of a minor child or minor ward upon an activating event.

"Attending physician" means the physician who has primary responsibility for the treatment and care for the petitioning parent, custodian, or guardian. When more than one physician shares this responsibility, or

when a physician is acting on the primary physician's behalf, any such physician may act as the attending physician pursuant to this act. When no physician has this responsibility, a physician who is familiar with the petitioner's medical condition may act as the attending physician pursuant to P.L.1995, c.76 (C.3B:12-67 et seq.).

"Criminal proceeding" means any incarceration on criminal charges, including pending charges, or a criminal sentence that separates a parent, custodian, or guardian from a minor child or minor ward.

"Custodian" means a person, other than a parent, who has been granted legal and physical custody of a minor child by a court of competent jurisdiction.

"Debilitated" means the parent, custodian, or guardian has a chronic and substantial inability, as a result of a physically debilitating illness, disease, or injury, to care for the parent's, custodian's, or guardian's minor child or minor ward.

"Guardian" means a person who has qualified as a guardian of the person of a minor pursuant to court appointment, including, but not limited to, a kinship legal guardian, but does not mean a person who is serving only as a guardian ad litem.

"Immigration administrative action" means any immigration proceeding, enforcement action, detention, removal, or deportation that separates a parent, custodian, or guardian from a minor child or ward.

"Incapacitated" means the parent, custodian, or guardian is impaired by reason of mental illness, intellectual disability, physical illness or disability, chronic use of drugs, chronic alcoholism, or other cause, except minority, to the extent that the person lacks sufficient capacity to manage the affairs of and provide care for the parent's, custodian's, or guardian's minor child or minor ward.

"Military service" means duty by any person in the active military service of the United States or the active military service of the State, including in the National Guard or State Guard, that separates a parent, custodian, or guardian from a minor child or minor ward.

"Minor child" means a child under the age of 18 years but excludes a child residing in a placement funded or approved by the Division of Child Protection and Permanency in the Department of Children and Families pursuant to either a voluntary placement agreement or court order.

"Minor ward" means a minor for whom a guardian is appointed.

4. Section 6 of P.L.1995, c.76 (C.3B:12-72) is amended to read as follows:

C.3B:12-72 Appointment of standby guardian by court.

6. a. Upon petition of a parent, custodian, guardian, or attorney-in-fact appointed pursuant to N.J.S.3B:12-39, the court may appoint a standby guardian of a minor child or minor ward. The court may also appoint an alternate standby guardian, if identified by the petitioner, to act if the appointed standby guardian dies, becomes incapacitated, or otherwise refuses or is unable to assume the duties of the standby guardian after the activating event stated in the petition.

b. A petition for the judicial appointment of a standby guardian of a minor child or minor ward shall state:

(1) which activating event or events shall cause the authority of the appointed standby guardian to become effective;

(2) the name and address of the proposed standby guardian; and

(3) the qualifications of the proposed standby guardian.

c. A parent, custodian, or guardian petitioning the court pursuant to this section shall not be required to appear in court if unable to appear, except upon motion of the court or by any party and for good cause shown.

d. The court shall appoint the standby guardian if the court finds that the proposed standby guardian is fit and willing to assume the duties of that role, and that the interests of the minor child or ward would be promoted by the appointment of the standby guardian.

e. The decree appointing the standby guardian shall specify the activating event which shall activate the authority of the standby guardian.

f. Upon petition for the appointment of a standby guardian by a person as specified in subsection a. of this section, notice shall be served on the minor child's parent, custodian, guardian, or attorney-in-fact appointed pursuant to N.J.S.3B:12-39, as appropriate, within 30 days of the filing. During the time that the petition is pending, the court shall give preference to maintaining custody with whoever had custody of the minor child or minor ward at the time the petition was filed. Nothing in this section shall be construed to deprive any parent of parental rights. If the petition alleges that after diligent search, the parent, custodian, or guardian cannot be found, the parent, custodian, or guardian shall be served by notice delivered pursuant to New Jersey court rules. No notice is necessary to a person who is deceased or to a parent whose parental rights have been previously terminated by court order or consent.

5. Section 7 of P.L.1995, c.76 (C.3B:12-73) is amended to read as follows:

C.3B:12-73 Immediate assumption of duties of appointed standby guardian; revocation in writing.

7. a. Upon the occurrence of an activating event set forth in a decree appointing a standby guardian, the standby guardian shall be immediately empowered to assume guardianship duties.

b. (Deleted by amendment, P.L.2021, c.192)

c. Within 90 days following the assumption of guardianship duties, the appointed standby guardian shall petition the court for confirmation. The confirmation petition shall include a determination that the activating event has occurred.

d. The court shall confirm an appointed standby guardian named in accordance with this act and otherwise qualified to serve as guardian pursuant to N.J.S.3B:12-1 et seq. unless there is a judicial determination of unfitness with regard to the appointed standby guardian.

e. A standby guardian appointed pursuant to section 6 of P.L.1995, c.76 (C.3B:12-72) may decline appointment at any time before the assumption of standby guardianship duties by filing a written statement to that effect with the court, with notice to be provided to the petitioner and to the minor child or minor ward if the child or ward is 14 years of age or older.

f. Commencement of the duties of the standby guardian shall confer upon the appointed standby guardian shared authority with the parent, custodian, or guardian of the minor child or minor ward, unless the petition states otherwise.

g. A parent, custodian, or guardian may revoke a standby guardianship by executing a written revocation, filing it with the court where the petition was filed, and promptly notifying the appointed standby guardian of the revocation. An unwritten revocation may be considered by the court if the revocation can be proved by clear and convincing evidence submitted to the court.

Repealer.

6. Sections 8 through 12 of P.L.1995, c.76 (C.3B:12-74 through C.3B:12-78) are repealed.

7. This act shall take effect on the 90th day following enactment.

Approved August 5, 2021.

CHAPTER 193

AN ACT concerning the placement of wagers on horse races, and supplementing chapter 5 of Title 5 of the Revised Statutes and amending P.L.2002, c.89.

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

C.5:5-190 Short title.

1. This act shall be known and may be cited as the "Fixed Odds Wagering Act."

C.5:5-191 Findings, declarations.

2. The Legislature finds and declares that:

a. The horse racing industry is economically important to this State, and the general welfare of the people of the State will be promoted by the advancement of horse racing and related projects and facilities in the State.

b. It is the intent of the Legislature, by authorizing fixed odds wagering, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment, and recreational opportunities in this State and to preserve the State's open spaces.

c. It is the further intent of the Legislature that fixed odds wagers may be taken in person, by direct telephone call, or by communication through other electronic media from residents of this State on horse races conducted within and outside of this State.

d. It is the further intent of the Legislature to permit persons located in New Jersey who are not residents or account holders to wager on fixed odds at racetracks in person or by electronic means.

e. The Legislature has determined that the Division of Gaming Enforcement, in consultation with the New Jersey Racing Commission, is best suited to oversee, license, and regulate fixed odds wagering in the State.

C.5:5-192 Definitions.

3. As used in this act:

"Advance deposit wagering" means a form of horse racing wagering in which account holders must fund their account before being permitted to place bets and refers to a fixed odds wagering licensee.

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

"Division" means the New Jersey Division of Gaming Enforcement in the New Jersey Department of Law and Public Safety created by section 55 of P.L.1977, c.110 (C.5:12-55).

"Fixed odds wagering" means a form of horse racing wagering against odds offered by a bookmaker in which account holders may lock in their odds when the bet is first placed and no fluctuation in potential payout may occur.

"Fixed odds wagering account" means the account established with the fixed odds wagering licensee by a person participating in fixed odds wagering.

"Fixed odds wagering licensee" means the authority, provided that the division has granted its approval for the authority or a racetrack permit holder to establish fixed odds wagering as provided for in this act, P.L.2021, c.193.

"Fixed odds wagering system" means a system through which fixed odds wagers are processed.

"Internet sports pool operator" means an entity that is licensed as a casino service industry enterprise pursuant to section 92 of P.L.1977, c.110 (C.5:12-92) and that holds a permit issued by the division to operate an online sports pool.

"Operating board" means the board established to negotiate, manage, and oversee any agreements made for the purposes of operating an account wagering system, off-track wagering facility, exchange wagering system, or fixed odds wagering system.

"Participation agreement" means the written contract entered into pursuant to this act, P.L.2021, c.193, that shall set forth the manner in which the fixed odds wagering system shall be managed, operated, and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the authority and the other eligible participants subject to the agreement, including standardbred and thoroughbred permit holders in this State.

"Permit holder" means the holder of an annual permit to conduct a horse race meeting issued by the commission.

C.5:5-193 Certain fixed odds wagering lawful.

4. Notwithstanding any law, rule, or regulation to the contrary, fixed odds wagering by residents of this State on the results of horse races conducted in this State or jurisdictions outside of this State shall be lawful provided that:

a. fixed odds wagering shall only be conducted by the fixed odds wagering licensee pursuant to a valid fixed odds wagering license issued by the division as provided for in this act;

b. fixed odds wagering shall be conducted pursuant to and in compliance with the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. ss.3001 - 3007, as amended, this act, any related intrastate

contracts, and rules and regulations promulgated by the division pursuant to this act;

c. in addition to the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. ss.3001 – 3007, fixed odds wagering conducted on in-State races shall require a written agreement with the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Thoroughbred Horsemen's Association for such wagering on the associations' respective breeds;

d. the division has approved a contract or agreement, if any, with a person or entity to conduct or operate fixed odds wagering and to act as the agent for the authority or racetrack permit holder in all fixed odds wagering matters approved by the division, pursuant to section 5 of this act, P.L.2021, c.193 (C.5:5-194), including but not limited to the portion of fixed odds revenues payable to such person or entity conducting or operating fixed odds wagering;

e. fixed odds wagers are submitted to and accepted by the fixed odds wagering licensee in person, by direct telephone call, or by communication through other electronic media, as appropriate; and

f. fixed odds wagers are placed through the fixed odds wagering system authorized in accordance with the provisions of this act, P.L.2021, c.192 (C.5:5-190 et al.), and in accordance with division rules, regulations, and conditions established therefor.

C.5:5-194 Issuance of license to establish fixed odds wagering.

5. a. The division is hereby authorized to issue a license to the authority, or to the racetrack permit holder, to establish fixed odds wagering in accordance with the provisions of this act, P.L.2021, c.193 (C.5:5-190 et al.). The licensing process shall include the filing by the authority of a fixed odds wagering license application developed by the division. The division may issue more than one license to the authority for the purpose of establishing additional fixed odds wagering systems. The division may issue an individual license to a racetrack permit holder if the authority and racetrack permit holder have mutually agreed to a transfer of licensing, pursuant to the provisions of section 6 of P.L.2021, c.193 (C.5:5-195). Each new wagering system shall require a license. All provisions of law concerning such license and the fixed odds wagering system shall apply to each license and each system established. Any reference in law to the license, the assignee, or the fixed odds wagering system shall refer to all licenses, assignees, and systems. A license issued pursuant to this act shall be valid for a term of one year.

Any participation agreement shall include an agreement by the operator to pay a proportional share of the available net project revenues determined

by the operating board to the standardbred or thoroughbred permit holder, as the case may be, and a re-negotiation mechanism to adjust a proportional share following the addition or removal of an operator.

b. At the time of filing an application for licensure under this section, the authority shall submit to the division a nonrefundable filing fee in an amount established by regulation by the division, and a certification in a form prescribed by the division which specifies, but is not limited to, information about the operation of the system and the authority's participation therein.

c. Within 14 days of receipt of a completed application, certification and applicable fees, the division's director shall determine whether the same is in due form and meets the requirements of law and regulations in all respects. No later than 60 days following the receipt of the application, the division shall make a final determination on the application. The division shall approve the application if it determines that the authority has demonstrated by clear and convincing evidence that wagers placed through the proposed fixed odds wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State.

d. The division's determination shall be submitted to the Attorney General for review and approval. The determination of the division shall be deemed approved by the Attorney General if affirmatively approved or not disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the division shall issue to the authority a license to establish the system. The fixed odds wagering license shall be valid for a term of one year, and shall be subject to renewal annually, unless a different timeframe is otherwise prescribed by regulation of the division.

e. With the approval of the division, the authority or racetrack permit holder may enter into a contract or agreement with a person or entity to conduct or operate the system and to act as the agent of the authority in all fixed odds wagering matters approved by the division. The fixed odds wagering license may not be transferred or assigned to a successor in interest without the approval of the division and the Attorney General, which approval may not be unreasonably withheld.

C.5:5-195 Transfer to individual racetrack permit holder.

6. The authority may transfer the operation and control of a fixed odds wagering operation to an individual racetrack permit holder if both the authority and racetrack permit holder mutually agree to such transfer. The division and the Attorney General shall approve the transfer following the

written agreement of the authority and racetrack permit holder. The division and the Attorney General shall review the agreement and determine if the racetrack permit holder has the appropriate apparatus to operate as a licensee of a fixed odds wagering system. If the transfer is not approved by the division and the Attorney General, the authority shall remain the fixed odds wagering licensee. Any agreement between the authority and a racetrack permit holder that does not receive approval from the division and Attorney General for a transfer may not be re-submitted for review until one year following the prior determination by the division and the Attorney General.

C.5:5-196 Rules, regulations, conditions.

7. a. The division, in consultation with the New Jersey Racing Commission, shall have full power to prescribe rules, regulations, and conditions under which fixed odds wagering may be conducted in this State, consistent with this act, including the manner in which fixed odds wagers may be accepted, the requirements for any person to participate in fixed odds wagering, and the reasonable approval of any and all agreements made pursuant to subsection c. of section 4 of this act, P.L.2021, c.193 (C.5:5-193).

b. The division shall have full power to prescribe rules, regulations, and conditions under which the fixed odds wagering license is issued or renewed in this State, including requiring an annual audit of a fixed odds wagering licensee's books and records pertaining to fixed odds wagering, requiring all hub facilities, servers, and technicians related to a fixed odds wagering operation by a licensee in this State be located in this State, and to revoke, suspend, or refuse to renew the license if in the opinion of the division the revocation of, suspension of, or refusal to renew such license is in the public interest; provided, however, that such rules, regulations, and conditions shall be uniform in their application.

c. The division shall have no right or power to determine who shall be officers, directors, or employees of any fixed odds wagering licensee, or the salaries thereof; provided, however, that the division may compel the discharge of any official or employee of the fixed odds wagering licensee or the fixed odds wagering system who: (1) fails or refuses for any reason to comply with the rules or regulations of the division; (2) fails or refuses for any reason to comply with any of the provisions of this act; (3) fails to establish by clear and convincing evidence in the opinion of the division good character, honesty, competency, and integrity; or (4) has been convicted of a crime involving fraud, dishonesty, or moral turpitude.

d. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90 days of the effective date of

P.L.2021, c.193, the director of the division shall adopt, immediately upon filing proper notice with the Office of Administrative Law, such temporary rules and regulations necessary to effectuate the purposes of this act. The rules and regulations so adopted shall be effective for a period not to exceed 18 months from the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted by the director in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.5:5-197 Procedure for opening a fixed odds wagering account, wagering.

8. a. A person within this State shall not be permitted to open a fixed odds wagering account, or place a fixed odds wager through the fixed odds wagering system, except in accordance with federal law and this act, and through the fixed odds wagering licensee, and no entity, other than the fixed odds wagering licensee, shall accept a fixed odds wager from a person within this State. A person may not place a fixed odds wager unless the person has established a fixed odds wagering account with the fixed odds wagering licensee and is physically present in New Jersey at the time of placing the account wager, except that persons physically present at a racetrack or off-track wagering facility may place a wager through a teller at a window without opening a fixed odds wagering account. To establish a fixed odds wagering account, a person shall be physically present in New Jersey at the time of establishing the wagering account, at least 18 years of age, except that any person on the self-exclusion list established pursuant to section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from establishing a fixed odds wagering account. A resident of this State who has established an account with a fixed odds wagering licensee may place a fixed odds wager through the licensee while physically present in New Jersey, or while physically present in another jurisdiction if placing such a wager is not inconsistent with the law of that jurisdiction or with federal law. The division shall develop protocols to accurately determine a person's location within the State to effectuate the provisions of this subsection.

b. The fixed odds wagering account shall be in the name of a natural person and may not be in the name of any beneficiary, custodian, joint trust, corporation, partnership, or other organization or entity.

c. A fixed odds wagering account may be established in person, by mail, telephone, or other electronic media, by a person completing an application form approved by the division. The form shall include the address of the principal residence of the prospective fixed odds wagering account holder and a statement that a false statement made in regard to an application may subject the applicant to prosecution. The fixed odds wagering licensee shall verify the identification, residence, and age of the

fixed odds wagering account holder using methods and technologies approved by the division.

d. The prospective fixed odds wagering account holder shall submit the completed application in person, by mail, telephone, or other electronic media, including the Internet and wireless devices, to the fixed odds wagering licensee or such other person or entity as may be approved by the division. The fixed odds wagering licensee may accept or reject an application after receipt and review of the application and certification, or other proof, of age and residency for compliance with this act.

e. Any prospective fixed odds wagering account holder who provides false or misleading information on the application is subject to rejection of the application or cancellation of the fixed odds wagering account by the fixed odds wagering licensee without notice.

f. The fixed odds wagering licensee shall have the right to suspend or close any fixed odds wagering account at its discretion.

g. Any person not in good standing with the division shall not be entitled to maintain a fixed odds wagering account.

h. The address provided by the applicant in the application shall be deemed the proper address for the purposes of mailing checks, fixed odds wagering account withdrawals, notices, and other materials.

i. A fixed odds wagering account shall not be assignable or otherwise transferable.

j. The fixed odds wagering licensee may at any time declare the fixed odds wagering system closed for receiving any wagers on any race or closed for all fixed odds wagering.

C.5:5-198 Credits made to fixed odds wagering account.

9. a. Credits to a fixed odds wagering account shall be made as follows:

(1) The fixed odds wagering account holder's deposits to the fixed odds wagering account shall be submitted by the fixed odds wagering account holder to the fixed odds wagering licensee and shall be in the form of one of the following:

(a) cash given to the fixed odds wagering licensee;

(b) check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the fixed odds wagering licensee; or

(c) charges made to a fixed odds wagering account holder's debit or credit card upon the fixed odds wagering account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic means to the fixed odds wagering licensee or its agent by the

fixed odds wagering account holder if the use of the card has been approved by the fixed odds wagering licensee.

(2) Credit for winnings from wagers placed with funds in a fixed odds wagering account shall be posted to the fixed odds wagering account by the fixed odds wagering licensee.

(3) The fixed odds wagering licensee shall have the right to refuse for any reason all or part of any fixed odds wager or deposit to the fixed odds wagering account.

(4) Funds deposited in the fixed odds wagering account shall not bear interest to the fixed odds wagering account holder.

b. Debits to a fixed odds wagering account shall be made as follows:

(1) Upon receipt by the fixed odds wagering licensee of a fixed odds wager properly placed pursuant to section 10 of this act, P.L.2021, c.193 (C.5:5-199), the fixed odds wagering licensee shall determine whether there are sufficient funds in the fixed odds wagering account holder's fixed odds wagering account to cover the total liability resulting from the fixed odds wager, taking into consideration other fixed odds wagers made by the fixed odds wagering account holder in the same market, and any additional applicable transaction or other fees due to the fixed odds wagering licensee under the division's rules and regulations, and deduct such amounts from the fixed odds wagering account holder's fixed odds wagering account.

(2) The fixed odds wagering licensee may authorize a withdrawal from a fixed odds wagering account when the fixed odds wagering account holder submits to the fixed odds wagering licensee, the fixed odds wagering licensee's agent, or such other entity as may be approved by the division, his or her fixed odds wagering account number and proper means of identification pursuant to procedures approved by the division. Fixed odds wagering account holders may request a withdrawal in person, by mail, by telephone, or by other electronic means. If there are sufficient funds in the fixed odds wagering account to cover the withdrawal, after taking into consideration any existing fixed odds wagers made by the fixed odds wagering account holder, the fixed odds wagering licensee shall make payment within three business days of receipt of the fixed odds wagering account holder's withdrawal request. Notwithstanding the foregoing, the fixed odds wagering licensee may decline or delay fulfilling a withdrawal request if the fixed odds wagering licensee reasonably suspects: (a) fraud; (b) that the fixed odds wagering account holder was ineligible to make one or more of the fixed odds wagers made from the fixed odds wagering account; or (c) any other conditions which the division may prescribe or approve. At the discretion of the fixed odds wagering licensee, withdrawals may be

payable in cash, by a check sent to the fixed odds wagering account holder's verified residence address, by wire transfer, or by other electronic transfer. Withdrawals shall be made payable only to the holder of the fixed odds wagering account and in no more than the amount of the requested withdrawal.

C.5:5-199 Acceptance of wagers.

10. a. The fixed odds wagering licensee may accept fixed odds wagers from anyone physically present in New Jersey who holds a valid account with a fixed odds wagering licensee or residents of New Jersey who hold a valid account and who are physically present in another jurisdiction where placing such a wager is not inconsistent with the law of that jurisdiction or with federal law, only in accordance with this act, federal law, and as follows:

(1) A wager to back or lay a particular outcome in a given market, specifying the price of the wager, shall be placed directly with the fixed odds wagering licensee by the holder of the fixed odds wagering account.

(2) The fixed odds wagering account holder placing the wager shall provide the fixed odds wagering licensee with the correct personal identification number of the holder of the fixed odds wagering account.

(3) A fixed odds wagering licensee may not accept a fixed odds wager, or series of fixed odds wagers, when the results of which would create a liability for the fixed odds wagering account holder in excess of funds on deposit in the fixed odds wagering account of that holder.

(4) Only the holder of a fixed odds wagering account shall place a wager. Unless otherwise approved by the division, no person, corporation, or other entity shall directly or indirectly act as an intermediary, transmitter, or agent in the placing of wagers for a holder of an fixed odds wagering account; provided, however, that the use of credit or debit cards specifically approved by the fixed odds wagering licensee or the use of checks, money orders, or negotiable orders of withdrawal or the use of telephonic, computer, or electronic means by the fixed odds wagering account holder to place such wagers shall not be prohibited.

(5) The fixed odds wagering account holder may place a wager in person, by direct telephone call or by communication through other electronic media.

b. A fixed odds wager may also be placed at a racetrack or off-track wagering facility in person without opening a fixed odds wagering account through a teller who shall issue a tote ticket for the wager which may then be cashed by the teller.

C.5:5-200 Collection of fixed odds revenues.

11. Subject to the approval of the division, the fixed odds wagering licensee shall be permitted to collect fixed odds revenues in the manner and amounts determined by the fixed odds wagering licensee, including but not limited to assessing a surcharge on any person's net winnings.

C.5:5-201 Requirements for fixed odds wagering licensee.

12. Notwithstanding any other law, rule, or regulation to the contrary, the division shall require each fixed odds wagering licensee to:

a. pay such portions of the fixed odds wagering licensee's fixed odds revenues as may be required pursuant to section 4 of this act, P.L.2021, c.193 (C.5:5-193);

b. pay to overnight purses to standardbred and thoroughbred permit holders for wagering on races for the permit holder's respective breed in this State 50 percent of fixed odds revenues retained by the fixed odds wagering licensee after the payments required pursuant to subsection a. of this section are made, and after deducting all reasonable and necessary expenses incurred by the licensee in administering, marketing, and operating the fixed odds wagering system; and

c. reach a business agreement with all standardbred and thoroughbred permit holders within this State as it pertains to wagering on the permit holder's respective breed, within one year from the date when the fixed odds wagering system becomes operational, for the distribution of the net fixed odds wagering revenues remaining after the payments are made pursuant to subsections a. and b. of this section and after the payment of operating expenses, subject to approval by the division; provided that, if an agreement is not reached within that time frame, the division shall distribute the fixed odds wagering revenues among the fixed odds wagering licensees and the standardbred and thoroughbred permit holders in this State based on wagering on the permit holder's respective breed.

C.5:5-202 Distribution of monies.

13. a. Of the monies distributed to overnight purses pursuant to subsection b. of section 12 of this act, P.L.2021, c.193 (C.5:5-201) on in-State races at the respective racetracks, all monies derived from fixed odds wagering on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering on standardbred races shall be paid to overnight purses for standardbred races.

b. Of the monies distributed to overnight purses pursuant to subsection b. of section 12 of this act, P P.L.2021, c.193 (C.5:5-201), on out-of-State and international races:

(1) all monies derived from fixed odds wagering at Monmouth Racetrack, including at off-track wagering facilities operated by Monmouth Racetrack and in regards to advance deposit wagering, on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering on standardbred races shall be paid to overnight purses for standardbred races;

(2) all monies derived from fixed odds wagering at Meadowlands Racetrack and Freehold Raceway, including at off-track wagering facilities operated by Meadowlands Racetrack and Freehold Raceway and in regards to advance deposit wagering, on thoroughbred races and standardbred races shall be paid to overnight purses, in the following manner: 65 percent shall be paid to overnight purses for thoroughbred races and 35 percent shall be paid to overnight purses for standardbred races; and

(3) notwithstanding paragraphs (1) and (2) of this subsection, all monies derived from fixed odds wagering by any internet sports pool operator or casino operator on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering by any internet sports pool operator or casino operator on standardbred races shall be paid to overnight purses for standardbred races.

c. The formula for allocating overnight purse monies from fixed odds wagering to overnight purses set forth in this section may only be modified by the mutual agreement of the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Thoroughbred Horsemen's Association. Nothing contained in this section shall be construed as a precedent for establishing the division of overnight purse amounts between standardbred races and thoroughbred races.

d. Notwithstanding the foregoing, the sum derived from fixed odds wagering on standardbred races pursuant to subsection b. of section 12 of P.L.2021, c.193 (C.5:5-201) may be distributed as provided by a contractual agreement authorized under section 11 of P.L.2013, c.266 (C.5:5-188). Notwithstanding the foregoing, the sum derived from fixed odds wagering on thoroughbred races pursuant to subsection b. of section 12 of P.L.2021, c.193 (C.5:5-201) may be distributed as provided by a contractual agreement authorized under section 12 of P.L.2013, c.266 (C.5:5-189).

C.5:5-203 Distribution of amounts remaining in inactive, dormant accounts.

14. All amounts remaining in fixed odds wagering accounts inactive or dormant for such period and under such conditions as established by regulation shall be distributed in accordance with the division's rules and regulations.

C.5:5-204 Licensure, registration required.

15. All persons engaged in conducting wagering-related activities through the fixed odds wagering system, whether employed directly by the fixed odds wagering licensee or by a person or entity conducting or operating the system pursuant to a contract or agreement with the fixed odds wagering licensee, shall be licensed or registered in accordance with such regulations as may be promulgated by the division hereunder. All other employees of the system shall be licensed or registered in accordance with regulations of the division. The division shall have full power to prescribe rules, regulations, and conditions under which all such licenses are issued, or registrations made, in this State and to revoke or refuse to issue a license, or revoke or refuse to accept a registration, if in the opinion of the division the revocation or refusal is in the public interest, provided, however, that such rules, regulations, and conditions shall be uniform in their application, and further provided that no fee shall be in excess of $50 for each license so granted or registration accepted.

C.5:5-205 Severability.

16. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

C.5:5-206 Rules, regulations.

17. The division shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act, P.L.2021, c.193.

18. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read as follows:

C.5:5-65.1 List of persons voluntarily excluded from certain racetracks, wagering.

1. a. The commission shall provide by regulation for the establishment of a list of persons who voluntarily seek to be excluded from entry into permitted racetracks and licensed off-track wagering facilities located in this State and from opening or maintaining a wagering account with the account wagering system, with the exchange wagering system, or with the fixed odds wagering system established in this State. A person may request placement on the self-

exclusion list by acknowledging in a manner to be established by the commission that the person is a problem gambler and by agreeing that, during a period of voluntary exclusion, the person may not collect winnings or recover losses resulting from wagering at a racetrack or off-track wagering facility or from account wagering, exchange wagering, or fixed odds wagering.

b. The commission shall promulgate regulations to: (1) establish procedures for placements on, and removals from, the list of self-excluded persons; (2) establish procedures for the transmittal to the permitted racetracks, licensed off-track wagering facilities, the account wagering system, the exchange wagering licensee, and the fixed odds wagering licensee of identifying information concerning persons on the self-exclusion list; and (3) require permitted racetracks, licensed off-track wagering facilities, the account wagering system, the exchange wagering licensee, and the fixed odds wagering licensee to establish procedures designed, at a minimum, to remove persons on the self-exclusion list from targeted mailings or other forms of advertising or promotions and deny such persons access to credit, complimentaries, check cashing privileges, club programs, and other similar benefits.

c. The commission, a permitted racetrack, a licensed off-track wagering facility, the account wagering system, the exchange wagering licensee, the fixed odds wagering licensee, or an employee thereof shall not be liable to a person on the self-exclusion list or to another party in a judicial proceeding for harm, monetary or otherwise, which may arise as a result of:

(1) the failure of a permitted racetrack, licensed off-track wagering facility or the account wagering system or the exchange wagering licensee or the fixed odds wagering licensee to withhold wagering privileges from, or restore wagering privileges to, a person on the self-exclusion list; or

(2) permitting a person on the self-exclusion list to engage in wagering activity at a permitted racetrack or licensed off-track wagering facility, or through the account wagering system, or through the exchange wagering system, or through the fixed odds wagering system.

d. Notwithstanding the provisions of section 8 of P.L.1940, c.17 (C.5:5-28), the commission's self-exclusion list shall be privileged and confidential and shall not be accessible to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

e. The commission, a permitted racetrack, a licensed off-track wagering facility, the account wagering system, the exchange wagering licensee, the fixed odds wagering licensee, or an employee thereof shall not be liable to a person on the self-exclusion list or to another party in a judicial proceeding for harm, monetary or otherwise, which may arise as a result of

disclosure or publication, other than a willfully unlawful disclosure or publication, of the identity of a self-excluded person.

19. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read as follows:

C.5:5-65.2 Regulations applicable to persons on self-exclusion list; enforcement; sanctions.

2. a. A person on the self-exclusion list established pursuant to section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any manner or proceeding, winnings or recover losses arising as a result of wagering activity at a permitted racetrack or licensed off-track wagering facility, or through the account wagering system, through the exchange wagering system, or through the fixed odds wagering system.

b. Money or a thing of value which has been obtained by, or is owed to, a person on the self-exclusion list from a permitted racetrack, licensed off-track wagering facility or account wagering system, exchange wagering system, or fixed odds wagering system as a result of wagers made by that person shall be subject to forfeiture by order of the executive director of the commission, following notice to the person on the self-exclusion list and opportunity to be heard.

Money or a thing of value forfeited shall be deposited into the State General Fund for appropriation by the Legislature to the Department of Human Services to provide funds for compulsive gambling treatment and prevention programs in the State.

c. In a proceeding brought by the commission against a live racing permit holder, the off-track wagering licensee, the account wagering licensee, the exchange wagering licensee, or the fixed odds wagering licensee for a willful violation of the commission's self-exclusion regulations, the commission may order, in addition to a permit or license suspension, a fine not to exceed $5,000 per wagering incident, the forfeiture of money or a thing of value obtained by the permit holder, off-track wagering licensee, account wagering licensee, exchange wagering licensee, or fixed odds wagering licensee from a person on the self-exclusion list and other remedial conditions the commission deems appropriate. Money or a thing of value so forfeited shall be disposed of in the same manner as money or a thing of value forfeited pursuant to subsection b. of this section.

20. This act shall take effect immediately.

Approved August 5, 2021.

CHAPTER 194

AN ACT concerning motor vehicles overtaking certain pedestrians, bicyclists, and scooter riders and supplementing Title 39 of the Revised Statutes.

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

C.39:4-92.4 Definitions; procedures.

1. a. As used in this section:

"Bicycle" shall have the same meaning as set forth in R.S.39:4-14.5.

"Low-speed electric bicycle" shall have the same meaning as set forth in R.S.39:1-1.

"Low-speed electric scooter" shall have the same meaning as set forth in R.S.39:1-1.

"Pedestrian" shall include, but not be limited to, a pedestrian as defined in R.S.39:1-1, a person in a wheelchair or motorized wheelchair as defined in R.S.39:1-1, a person employed by or who contracts with any public utility company in this State, a property maintenance worker, or any other person who is permitted by law to be upon the roadway for work or recreation.

b. The operator of a motor vehicle approaching a pedestrian, bicycle, low-speed electric bicycle, low-speed electric scooter, or any other lawful personal conveyance located or operating in an area designated for pedestrians or those conveyances, as appropriate, on the roadways of this State shall approach with due caution and shall, absent any other direction by a law enforcement officer, proceed as follows:

(1) when possible under existing safety and traffic conditions, make a lane change into a lane not adjacent to the pedestrian or personal conveyance;

(2) if a lane change cannot be made pursuant to paragraph (1) of this subsection, leave a reasonable and safe distance of not less than four feet while approaching the pedestrian or personal conveyance and maintain a distance of at least four feet until the motor vehicle has safely passed the conveyance; or

(3) if it is not possible, prohibited by law, or unsafe to make a lane change pursuant to paragraph (1) of this subsection or to leave a reasonable and safe distance of not less than four feet pursuant to paragraph (2) of this subsection, the motor vehicle operator shall reduce the speed of the motor vehicle to 25 miles per hour or a lower posted speed and be prepared to stop; the operator may pass the pedestrian or personal conveyance only if, considering the size and speed of the motor vehicle, traffic conditions, weather, visibility, and the surface and

width of the roadway, passing does not endanger the safety of a pedestrian, operator of the personal conveyance, or any other person on the roadway.

c. A person who commits a violation of the provisions of this section which results in bodily injury as defined in N.J.S.2C:11-1 shall be fined $500 and assessed two motor vehicle penalty points; if no bodily injury results, the violator shall be fined $100 and shall not be assessed any penalty points.

d. Nothing in this section shall be construed to preclude or limit a prosecution or conviction for a violation of any offense defined by the laws of this State or for any violation of Title 39 of the Revised Statutes.

2. This act shall take effect on the first day of the seventh month following enactment.

Approved August 5, 2021.

CHAPTER 195

AN ACT renaming the Dismal Swamp and Dismal Swamp Preservation Commission and amending P.L.2009, c.132.

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

1. Section 1 of P.L.2009, c.132 (C.40:55D-88.1) is amended to read as follows:

C.40:55D-88.1 Short title.

1. This act shall be known and may be cited as the "Peter J. Barnes III Wildlife Preservation Act."

2. Section 2 of P.L.2009, c.132 (C.40:55D-88.2) is amended to read as follows:

C.40:55D-88.2 Findings, declarations relative to the "Peter J. Barnes III Wildlife Preservation Commission."

2. The Legislature finds and declares that:

a. The Dismal Swamp Conservation Area in Middlesex County is approximately 660 acres of freshwater wetlands, forested uplands, and meadows in a densely populated, highly developed central part of the State, offering unique natural habitat including federal priority wetlands;

b. The Dismal Swamp Conservation Area is a birding oasis in a densely developed region of the State where over 175 different bird species have been spotted, including the threatened and endangered grasshopper sparrow and yellow-crowned night-heron;

c. In addition to over 175 bird species, 25 mammals and over a dozen reptile and amphibian species have been sighted in the Dismal Swamp Conservation Area;

d. Archeological digs in the Dismal Swamp Conservation Area have uncovered at least five significant archeological sites, including one at least 10,000 years old;

e. This area, spanning Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County, represents one of the last remaining wetland ecosystems in a highly urbanized environment in the State;

f. The area consists of privately and publicly owned parcels of land within three municipalities, each with its own planning and zoning authority, and as a result, decisions concerning development within the area are made without a coherent plan; and

g. It is therefore appropriate and in the best interests of the State to encourage the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough, respectively, in Middlesex County to establish a Peter J. Barnes III Wildlife Preservation Commission to provide comprehensive regulatory authority and regional planning for the area with a primary focus on protecting and preserving the ecological, historical, and recreational values of the area.

3. Section 3 of P.L.2009, c.132 (C.40:55D-88.3) is amended to read as follows:

C.40:55D-88.3 Definitions relevant to the "Peter J. Barnes III Wildlife Preservation Commission."

3. As used in this act:

"Application for development" means the application form and all accompanying documents required by municipal ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or other permit as provided in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Commission" means the Peter J. Barnes III Wildlife Preservation Commission established pursuant to section 4 of this act upon adoption of authorizing resolutions by the local governing bodies of Edison Township,

Metuchen Borough, and South Plainfield Borough in Middlesex County, respectively.

"Peter J. Barnes III Wildlife Preserve" means the area located within Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County as delineated by a metes and bounds description approved by resolution adopted by the respective local governing bodies of those municipalities.

"Project" means any structure, land use change, or public improvement for which a permit from, or determination by, the municipality is required, which shall include, but not be limited to, building permits, zoning variances, and excavation permits.

4. Section 4 of P.L.2009, c.132 (C.40:55D-88.4) is amended to read as follows:

C.40:55D-88.4 Authorizing resolution.

4. a. Upon adoption of an authorizing resolution by the local governing body of Edison Township, Metuchen Borough, and South Plainfield Borough, respectively, in Middlesex County, there is established the Peter J. Barnes III Wildlife Preservation Commission. The commission shall consist of nine members, appointed and qualified as follows, provided however, that no more than five members shall be of the same political party and no more than three members shall be appointed from any one municipality:

(1) Two residents of Edison Township, appointed by the governing body of the municipality;

(2) Two residents of Metuchen Borough, appointed by the governing body of the municipality;

(3) Two residents of South Plainfield Borough, appointed by the governing body of the municipality;

(4) Two elected officials from Middlesex County, appointed by agreement of the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough; and

(5) one representative of the Edison Wetlands Association, appointed by agreement of the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough.

b. Each member shall serve for a term of five years. Each member shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only.

c. Any member of the commission may be removed by adoption of a resolution by the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough for cause after a public hearing.

d. Each member of the commission shall take and subscribe to an oath to perform the duties of the office faithfully, impartially, and justly to the best of their ability.

e. The members of the commission shall serve without compensation, but the commission may reimburse its members for necessary expenses incurred in the discharge of their duties.

f. The commission shall select from its members a chairperson and vice-chairperson, and may employ an executive director, who may also serve as secretary, and a treasurer. The commission may also appoint, retain and employ, without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, such officers, agents, employees and experts as it may require, and it shall determine their qualifications, terms of office, duties, services and compensation. The local governing bodies may provide administrative support to the commission.

g. The powers of the commission shall be vested in the members thereof in office from time to time, and a majority of the total authorized membership of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of a majority of the total authorized membership; provided, however, that the commission may designate one or more of its agents or employees to exercise such administrative functions, powers, and duties, as it may deem proper, under its supervision and control. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

h. No member, officer, employee, or agent of the commission shall be financially interested, either directly or indirectly, in any project, any part of a project area, or an application for development, other than a residence, or in any contract, sale, purchase, lease, or transfer of real or personal property located within the boundaries of the Peter J. Barnes III Wildlife Preserve.

(1) Any contract or agreement knowingly made in contravention of this subsection is voidable.

(2) Any person who willfully violates the provisions of this subsection shall forfeit office or employment.

5. Section 5 of P.L.2009, c.132 (C.40:55D-88.5) is amended to read as follows:

C.40:55D-88.5 Powers, duties of commission.

5. a. Upon establishment of the commission pursuant to section 4 of this act and appointment of its members, notwithstanding any provision of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to the contrary, the commission shall review and approve, reject or modify all applications for development within the Peter J. Barnes III Wildlife Preserve pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.). The commission shall exercise any or all of the powers and duties of a municipal planning board and any or all of the powers and duties of a county planning board for the Peter J. Barnes III Wildlife Preserve.

No application for development shall be required to be reviewed and approved by both the commission and the planning board of a constituent municipality.

b. The commission shall review and approve, reject, or modify any State project planned within the Peter J. Barnes III Wildlife Preserve, and submit its decision to the Governor and the commissioner of the department proposing the project.

c. The review of an application for development shall not be contingent upon the adoption of the master plan pursuant to section 6 of this act; however, upon adoption of the master plan, any application for development shall be reviewed to ensure that the actions proposed in the application also conform to the master plan.

Until the adoption of the master plan pursuant to section 6 of this act, the decisions of the commission shall be based upon the municipal master plans, ordinances, and resolutions of Edison Township, Metuchen Borough, and South Plainfield Borough, adopted pursuant to the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

d. The commission shall coordinate and support activities by citizens' groups to promote and preserve the Peter J. Barnes III Wildlife Preserve, and shall actively seek funds for the purchase and preservation of lands within the Peter J. Barnes III Wildlife Preserve for recreation and conservation purposes.

e. In accordance with the provisions of section 4 of P.L.1975, c.291 (C.40:55D-8), the commission may establish and charge reasonable fees for the review of applications for development submitted to the commission and for other services the commission may provide. Fees collected pursuant to this subsection shall be deposited into a separate account, and shall be dedicated for use by the commission solely for the purposes of administering and enforcing its responsibilities pursuant to this act.

6. Section 6 of P.L.2009, c.132 (C.40:55D-88.6) is amended to read as follows:

C.40:55D-88.6 Master plan for the "Peter J. Barnes III Wildlife Preservation Commission."

6. a. The commission shall prepare, or cause to be prepared, after holding one public hearing in each of the three municipalities within the Peter J. Barnes III Wildlife Preserve, a master plan for the physical, economic and social development of the Peter J. Barnes III Wildlife Preserve with elements similar to those provided for municipal master plans in section 19 of P.L.1975, c.291 (C.40:55D-28), as the commission determines to be appropriate for the preservation of the ecological and historical nature of the Peter J. Barnes III Wildlife Preserve.

The master plan shall include a report presenting the objectives, assumptions, standards and principles which are embodied in the various interlocking portions of the master plan. In preparing the master plan or any portion thereof or amendment thereto the commission shall give due consideration to: existing historical sites and potential restorations or compatible development; the range of uses and potential uses of the area in the developed communities through which it passes; designated areas to be kept as undeveloped, limited-access areas restricted to conservation or passive recreation; and any other issues the commission deems appropriate for the protection and enhancement of the area. In preparing the master plan or any portion thereof or amendment thereto, the commission shall consider existing patterns of development and any relevant master plan or other plan of development, and shall ensure widespread citizen involvement and participation in the planning process.

b. The commission shall act in support of local suggestions or desires to complement the master plan. Consultation, planning, and technical expertise shall be made available to local planning bodies that wish to implement land-use policies to enhance the area. The commission shall act on or refer complaints by citizens' groups or private residents who discover hazardous situations, pollution, or evidence of noncompliance with use regulations.

7. Section 7 of P.L.2009, c.132 (C.40:55D-88.7) is amended to read as follows:

C.40:55D-88.7 No approval extended, tolled to the "Peter J. Barnes III Wildlife Preservation Commission."

7. Notwithstanding any provision of P.L.2008 c.78 (C.40:55D-136.1 et seq.) to the contrary, no approval, as defined therein, within the Peter J.

Barnes III Wildlife Preserve shall be extended or tolled pursuant to the provisions of P.L.2008, c.78 (C.40:55D-136.1 et seq.).

8. This act shall take effect on the 90th day following enactment.

Approved August 10, 2021.

CHAPTER 196

AN ACT creating a two-year restorative and transformative justice pilot program focused on reducing initial and repeat youth involvement with the youth justice system, and making an appropriation.

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

1. The Legislature finds and declares that:

a. Currently, New Jersey's youth justice system has staggering racial justice disparities, high recidivism rates, and grossly underfunded community-based services;

b. New Jersey has the highest Black to white youth incarceration racial disparity rate in the country with a Black youth twenty-one times more likely to be detained or committed than a white youth, even though research shows that Black and white youth commit most offenses at similar rates;

c. New Jersey also has the fourth highest Latina-Latino to white youth incarceration disparity rate in the country;

d. The recidivism rates in New Jersey are devastating as well. Of the 336 youth released from State juvenile facilities in 2015, over one quarter (28 percent), were recommitted to a facility within three years of release;

e. Yet, despite these failures, New Jersey continues to finance its youth incarceration system at exorbitant cost. In fiscal year 2021, New Jersey will spend $445,504 to incarcerate each youth in a State secure juvenile facility managed and operated by the Juvenile Justice Commission;

f. While the State currently spends approximately $53 million a year to operate its three secure juvenile facilities, it only allocates around $16 million to provide counties with funding for community-based youth programs;

g. The current public health crisis resulting from the Coronavirus disease 2019 pandemic, also referred to as the COVID-19 pandemic, has further illustrated the failures of our youth justice system by detrimentally

harming our impacted youth. As of March 18, 2021, according to the Juvenile Justice Commission, 92 youth and 221 staff in juvenile facilities have tested positive for the virus SARS-CoV-2 which causes COVID-19; 54 of the 92 youth cases occurred at the New Jersey Training School, also known as Jamesburg, the State's largest secure facility for youthful males;

h. The Juvenile Justice Commission has taken several measures to mitigate the spread of the virus, including releasing approximately 90 incarcerated youth from its facilities as of November 4, 2020. Since the enactment of P.L.2020, c.111, more incarcerated youths will be released in an expedited fashion because their terms of incarceration will be reduced based on awards of credits during the current declared public health emergency concerning the COVID-19 pandemic;

i. As young people are released from facilities in response to the current pandemic, it is clear that the State must actively engage communities and properly fund services to reintegrate these youth back into their communities successfully;

j. The Juvenile Justice Commission and community stakeholders should also work together to create community-based public safety systems that support all young people as they return home from juvenile facilities and divert young people away from the youth justice system in the first place;

k. Thus, the confluence of the COVID-19 pandemic with the on-going, fervent call for racial equality demands a fresh and immediate need to transform New Jersey's youth justice system. As an alternative to an overreliance on punishment, New Jersey needs a community-based system that embraces restorative and transformative justice practices and emphasizes physical, psychological and emotional safety and healing for youth, their families and communities;

l. Nationally, restorative justice and transformative justice programs and practices have been recognized as best practices in keeping young people out of the youth justice system and successfully reintegrating them into their home communities after being released from out-of-home placements;

m. Restorative justice is a system that brings victims, community members, and youth who have committed harm together to discuss the harm that was done and explore solutions to address the root cause of that harm. This system presents an alternate avenue for addressing harm and encourages active participation in the restorative process to facilitate stronger community relationships and community-driven public safety;

n. Transformative justice addresses conflicts and harms at the individual level, community level, and within broader social structures. Transformative justice works to build alternatives to our current systems and

transform the conditions which help create acts of violence or make them possible;

o. Restorative justice and transformative justice offer two different perspectives of justice aimed at interpersonal and consensual resolutions, with transformative justice also incorporating systems-level change;

p. To sufficiently support young people being released from juvenile facilities in response to the current public health crisis, and to provide adequate resources for all youth released from incarceration and to prevent young people in New Jersey from entering the youth justice system in the first instance, New Jersey should explore, through a pilot program, the development of a comprehensive youth continuum of care based on restorative and transformative justice practices.

2. As used in this act:

"Community conferencing" is a practice which addresses conflicts through a collective group session, consensual resolution, and decision-making processes to heal and repair harms. Community conferencing works for multiple types of conflicts involving the community, station house adjustments, juvenile court diversion, and reentry from youth incarceration.

"Peace circles" refer to a technique used to facilitate restorative conversations, conflict resolution strategies, and healing practices between youth, families, and community stakeholders.

"Restorative justice hubs" are physical spaces within the community where youth and families can heal, reconnect, and build healthy relationships in the community. The purpose of restorative justice hubs is to resolve local conflicts through dialogue instead of punitive measures. Restorative justice hubs shall provide services that: include peace circles and community conferencing; connect youth and families to the services and programs provided for in paragraphs (1) through (9) of subsection b. of section 3 of P.L.2021, c.196; and coordinate service delivery across the community, and by doing so, create and maintain equitable relationships and collaborations between the Juvenile Justice Commission, county youth services commissions, courts, public defenders, prosecutors, law enforcement, and any other appropriate entities or persons.

3. There is established in the Juvenile Justice Commission, created by section 2 of P.L.1995, c.284 (C.52:17B-170), a two-year pilot program, titled the "Restorative and Transformative Justice for Youths and Communities Pilot Program." The purpose of the pilot program is to develop innovative restorative and transformative justice continuums of care in four target cities that include two components: restorative justice hubs and community-based

enhanced reentry wraparound services. The pilot program shall be established in the municipalities of Camden, Newark, Paterson, and Trenton.

a. The first component of the pilot program shall include restorative justice hubs. Each of the four pilot program municipalities shall have one restorative justice hub.

b. The second component of the pilot program shall include community-based enhanced reentry wraparound services to be provided within each restorative justice hub. These services shall be designed as an emergency response for those young people being released from juvenile facilities due to the COVID-19 pandemic, and may also serve as a long-term program for all young people released from a facility. Community-based enhanced reentry wraparound services shall include, but not be limited to, the following services and supports:

(1) Mental health services;

(2) Substance use disorders treatment and recovery;

(3) Education support;

(4) Employment services;

(5) Housing support;

(6) Financial literacy and debt support services;

(7) Life skills support services;

(8) Social support services; and

(9) Preventative mentoring services.

c. The goals of the pilot program shall be:

(1) To increase participation in education, vocational programming, and employment. Youth participants in the pilot program shall receive academic support, depending on personal development goals, and shall be connected to secondary schools, alternative schools, vocational schools, apprenticeship programs and colleges and universities. The program shall collaborate with local community college's admissions and academic support programs, and offer workshops that include financial aid planning. Participants seeking employment shall be linked to vocational or job readiness training. The selected partner-providers participating in the pilot program shall be trained in and utilize evidence-based and evidence-informed practices with respect to the provision of their respective services;

(2) To increase participation in mental health and well-being programming. The program shall employ trauma-informed practices and connect youth to licensed outpatient mental health care facilities and professionals. The program shall create safe, caring environments to address physical health, mental health and substance use disorder conditions and facilitate healing for youth, families, and communities;

(3) To decrease incidents of harmful and unlawful behavior. The program shall work with youth to comply with their probation or parole plan, as applicable. Moreover, the program shall employ trauma-informed practices, violence reduction, and peacemaking supports and tools to address harmful and unlawful behavior;

(4) To have restorative justice hubs establish working relationships with local law enforcement agencies, courts, prosecutors, and defense attorneys to support the diversion of youth away from arrests and prosecution and towards participation in restorative justice services provided in the hubs;

(5) To improve the socioemotional and behavioral responses of youth within communities through the use of more appropriate, and less punitive, interventions, thereby establishing more restorative interventions; and

(6) To increase program participation rates in other restorative and transformative justice programs in the municipalities in which the pilot program is established.

4. a. (1) The county youth services commissions for the counties in which the municipalities participating in the pilot program are located shall implement their existing request for proposal process in order to select service providers to develop and implement the program.

(2) A restorative justice hub may have a single service provider or multiple service providers within one lead service provider.

(3) An individual organization interested in becoming a service provider at a restorative justice hub shall submit a proposal using the existing request for proposal process to the appropriate youth services commission.

(4) A lead organization partnering with other organizations which are interested in becoming service providers at a restorative justice hub shall submit a joint proposal using the existing request for proposal process to the appropriate youth services commission. If selected, they shall jointly provide services at the restorative justice hub.

b. All proposals shall include concrete measurements for success to assess the impact of the program and include outcomes related to positive youth development, reduction in harmful behavior, and community engagement.

c. In addition to the pilot program requirements set forth in subsections a. and b. of section 3 of P.L.2021, c.196, concerning mandatory components of restorative justice hubs enhanced reentry wraparound services, a proposal may also include, and a youth services commission may consider and accept for the program, additional services and training that support the development and implementation of restorative justice and transformative justice practices in the participating municipalities.

d. Persons and organizations selected as service providers shall collaborate with the service providers of any education pilot programs operating in the participating municipalities during the time the pilot program established by this act is operating, in order to incorporate restorative justice and transformative justice practices within that education pilot program.

e. Persons and organizations selected as service providers may seek additional monies from any public or private source to further advance the goals of the pilot program.

f. Each service provider participating in the pilot program shall be required to undergo intensive training in restorative and transformative justice practices. A service provider may be exempt from this training requirement upon a satisfactory showing of proof of prior training in these practices which may include certificates of completion of training courses provided by trainers in restorative and transformative justice practices approved by the Juvenile Justice Commission. Service providers may use the monies awarded from the pilot program to finance this training.

5. There is established within the General Fund a separate, temporary dedicated fund to be known as the "Restorative and Transformative Justice for Youths and Communities Pilot Program Fund," to be held separate and apart from all other funds of the State. This fund shall be administered and the monies in the fund distributed by the Juvenile Justice Commission. From the monies appropriated under the category of juvenile grants-in-aid for the Department of Law and Public Safety in State fiscal year 2022 and State fiscal year 2023, $4,200,000 in each fiscal year shall be credited to this fund for a total of $8,400,000, and these monies, and any interest or other income earned thereon, shall only be used for purposes associated with the pilot program established by this act.

a. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Juvenile Justice Commission, immediately upon filing with the Office of Administrative Law and within 120 days of the effective date of this act, shall adopt such rules and regulations as the commission deems necessary or proper to implement the provisions of this act including, but not limited to, setting the terms and conditions of applying for grants paid for by monies in the fund, the distribution of those monies, and for publishing these terms and conditions on its official website. The rules and regulations shall be effective during any interim period and may thereafter be amended, adopted, or readopted by the commission in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The Juvenile Justice

Commission also shall require: the Passaic County Youth Services Commission to schedule one public meeting in Paterson; the Essex County Youth Services Commission to schedule one public meeting in Newark; the Mercer County Youth Services Commission to schedule one public meeting in Trenton; and the Camden County Youth Services Commission to schedule one public meeting in Camden. These public meetings shall be held to announce the pilot program, and inform the public of the adopted rules and regulations for grant applications and distributions.

(2) The initial rules and regulations adopted pursuant to paragraph (1) of this subsection shall be in effect for the duration of the two-year pilot program, unless the commission determines it is necessary to amend or repeal any initial rule or regulation, which it may do on an expedited basis immediately upon filing proper notice with the Office of Administrative Law, notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary.

b. The fund shall be used to provide grants to participating service providers selected by the county youth services commissions through a competitive process pursuant to section 4 of P.L.2021, c.196 to develop and implement the pilot program established by this act. Priority in distributing monies in the fund shall be given to service providers located in the four pilot municipalities and to service providers whose employees are representative of the communities to be served by the pilot program. Monies in the fund used to provide grants to develop and implement the pilot program shall be allocated equally among the four county youth services commissions and distributed in accordance with rules and regulations adopted by the Juvenile Justice Commission.

c. No more than eight percent of the monies in the fund shall be used by the Juvenile Justice Commission for administrative purposes and no more than 15 percent of the monies in the fund shall be used by the county youth services commissions for administrative purposes.

d. Monies in the fund administered and distributed by the Juvenile Justice Commission shall not replace any other funds administered and distributed by the commission, including those administered and distributed through the State/Community Partnership Grant Program established pursuant to P.L.1995, c.283 (C.52:17B-179 et al.).

e. The pilot program shall operate for a period of two years, exclusive of the time required to implement the grant application and award process, and to initiate the pilot program. To the extent necessary, funding distributed to the pilot program shall be carried forward and used for its purposes regardless of whether the funds are expended in the same fiscal year in which

the funds were initially distributed. At the conclusion of the two-year pilot program, any monies remaining in the fund shall be transferred to the Juvenile Justice Commission for use in administering the State/Community Partnership Grant Program established pursuant to P.L.1995, c.283 (C.52:17B-179 et al.), and funding grants distributed through that program.

6. The Juvenile Justice Commission shall submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature at the conclusion of the two-year pilot program, containing information on the development and implementation of the pilot program and the feasibility of expanding the program to other municipalities in the State. The report shall also include copies of any reports by service providers selected to develop and implement the pilot program by the county youth services commissions for the counties in which the municipalities participating in the pilot program are located pursuant to section 3 of this act.

7. This act shall take effect immediately, and shall expire 30 days following the Juvenile Justice Commission's submission of the report to the Governor and Legislature as required by section 5 of this act.

Approved August 11, 2021.

CHAPTER 197

AN ACT concerning urban enterprise zones, amending P.L.2001, c.347 and P.L.1989, c.207, amending and supplementing P.L.1983, c.303, repealing various parts of the statutory law, and making an appropriation.

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

1. Section 3 of P.L.1983, c.303 (C.52:27H-62) is amended to read as follows:

C.52:27H-62 Definitions.

3. As used in P.L.1983, c.303 (C.52:27H-60 et seq.):

a. "Enterprise zone" or "zone" means an urban enterprise zone designated by the authority pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.);

b. "Authority" or "UEZ Authority" means the New Jersey Urban Enterprise Zone Authority created by P.L.1983, c.303 (C.52:27H-60 et seq.);

c. "Qualified business" means any entity authorized to do business in the State of New Jersey which, at the time of designation as an enterprise zone or a UEZ-impacted business district, is engaged in the active conduct of a trade or business in that zone or district; or an entity which, after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone or district and has at least 25 percent of its full-time employees employed at a business location in an eligible block group as defined under section 12 of P.L.2021, c.197 (C.52:27H-99), and which employees meet one or more of the following criteria:

(1) Residents within the zone, the district, within another zone or within a qualifying municipality; or

(2) Unemployed for at least six months prior to being hired and residing in New Jersey, and recipients of New Jersey public assistance programs for at least six months prior to being hired, or either of the aforesaid; or

(3) Determined to be low income individuals pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2811);

Approval as a qualified business shall be conditional upon meeting all outstanding tax obligations, and may be withdrawn by the authority if a business is continually delinquent in meeting its tax obligations;

d. "Qualifying municipality" means any municipality that was previously designated as a qualifying municipality prior to the effective date of P.L.2021, c.197;

e. "Public assistance" means income maintenance funds administered by the Department of Human Services or by a county welfare agency;

f. "Zone development corporation" means a nonprofit corporation or association created or designated by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of P.L.1983, c.303 (C.52:27H-68) and to prepare, monitor, administer and implement the zone development plan;

g. "Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses and community organizations within the enterprise zone toward the economic betterment of the residents of the zone and the municipality;

h. "Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.); which is

organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes; and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to (1) stimulate economic activity, (2) increase or preserve residential amenities, or (3) otherwise encourage community cooperation in achieving the goals of the zone development plan;

i. "Enterprise zone assistance fund" or "assistance fund" means the fund created by section 29 of P.L.1983, c.303 (C.52:27H-88);

j. "UEZ-impacted business district" or "district" means an economically-distressed business district classified by the authority as having been negatively impacted by two or more adjacent urban enterprise zones in which 50 percent less sales tax is collected pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80);

k. "Block group" means statistical divisions of census tracts, that are generally defined by the United States Census Bureau to contain between 600 and 3,000 people and are used to present data and control block numbering;

l. "Municipal Revitalization Index" means the index developed, maintained, and updated from time to time, by the Department of Community Affairs ranking New Jersey's municipalities according to separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality;

m. "Qualified assistance fund expense" means any reasonable expense related to:

(1) a construction project improving, altering, or repairing the real property of a qualified business located in an enterprise zone;

(2) full or part time economic and community development positions in the municipality, other governmental, or not-for-profit organization, or marketing;

(3) loans, grants, and guarantees to businesses;

(4) payroll expenses, personnel, services, and equipment purchases primarily for the provision of law enforcement, fire protection, or emergency medical services within commercial and transportation corridors located exclusively in an enterprise zone;

(5) planning and other professional services related to economic and community development;

(6) cleaning and maintenance of commercial and transportation corridors;

(7) the improvement of public infrastructure in a commercial or transportation corridor;

(8) the improvement of public infrastructure related to a commercial, industrial, mixed use, or multi-family residential property;

(9) employment and training programs; or

(10) events meant to support and draw activity into the enterprise zone, including fairs, festivals, and concerts.

n. "UEZ coordinator" means an individual designated by a qualified municipality or zone development corporation as the individual in charge of the activities related to the Urban Enterprise Zone program in that municipality;

o. "UZ-2 certification" means the UEZ Authority's certification of a qualified business, pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), allowing the qualified business an exemption to the extent of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), when the sales transaction physically occurs within an enterprise zone. The qualified business may deliver merchandise to the purchaser at a location outside an enterprise zone provided the sales transaction was physically made within the enterprise zone. The regular tax rate shall be charged for mail order, telephone, internet, and similar sales transactions delivered within the State;

p. "UZ-4 certification" means the UEZ Authority's certification of a qualified business, pursuant to section 8 of P.L.2021, c.197 (C.52:27H-79.1), allowing a contractor of the qualified business to make tax-free purchases of materials, supplies, and services for the exclusive use of erecting a structure or building on, or substantially improving, altering, or repairing, the real property of a qualified business located in an enterprise zone at the address indicated on the qualified business's application for certification to the UEZ Authority;

q. "UZ-5 certification" means the UEZ Authority's certification of a qualified business, as defined under section 20 of P.L.1983, c.303 (C.52:27H-79), allowing the qualified business to make tax-free purchases of office and business equipment and supplies, furnishings, trade fixtures, repair, or construction materials and all other tangible personal property (other than motor vehicles and motor vehicle parts and supplies) for the exclusive use or consumption on the premises of the qualified business within an enterprise zone at an address indicated on the qualified business's application for certification to the UEZ Authority. The exemption may be used only for personal property controlled by the qualified business. This exemption shall also apply to delivery charges and charges for services performed for a qualified business at its zone location, including repair, janitorial, and maintenance services;

r. "Economic Distress Index" means a standardized score developed and maintained by the Department of Community Affairs that equally incorporates the block group unemployment rate and median household income according to the most recent five-year estimate by the United States Census Bureau;

s. "Commercial corridor" means the land area with frontage on a State, county, local, or rail thoroughfare in an enterprise zone which is predominantly commercial or industrial; and

t. "Transportation corridor" means a broad geographical band that follows a general directional flow or connects major sources of trips. It may contain a number of streets and highways and transit lines or routes.

2. Section 4 of P.L.1983, c.303 (C.52:27H-63) is amended to read as follows:

C.52:27H-63 New Jersey Urban Enterprise Zone Authority.

4. a. There is created the New Jersey Urban Enterprise Zone Authority, which shall consist of:

(1) The chief executive officer of the New Jersey Economic Development Authority;

(2) The Commissioner of the Department of Community Affairs, who shall be the chair of the UEZ Authority;

(3) The Commissioner of the Department of Labor and Workforce Development;

(4) The State Treasurer;

(5) The chief executive officer of the New Jersey Redevelopment Authority; and

(6) Four public members not holding any other office, position or employment in the State Government, nor any local elective office, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall be qualified for their appointments by training and experience in the areas of local government finance, economic development and redevelopment, or volunteer civic service and community organization. No more than two public members shall be of the same political party. At least one public member of the authority shall reside within an enterprise zone; however, the provisions of this section shall apply only to members appointed or reappointed after the effective date of P.L.2001, c.347 (C.52:27H-66.2 et al.).

b. (Deleted by amendment, P.L.2021, c.197)

c. An ex officio member of the authority may, from time to time, designate in writing to the authority an official within his respective department to attend and represent the department at the meetings of the authority from which the ex officio member is absent, and that designated representative shall be entitled to vote and otherwise act for the ex officio member at those meetings.

d. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the copy of the minutes shall have been so delivered, unless during such 10-day period the Governor shall approve the same, in which case such action shall become effective upon such approval. If, in that 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect.

e. The UEZ Authority, reconstituted pursuant to P.L.2021, c.197 (C.52:27H-79.1 et al.), shall hold an initial meeting on the first business day of the third month following the date of enactment of P.L.2021, c.197 (C.52:27H-79.1 et al.). The public members of the UEZ Authority shall serve for terms of five years, except that of the members first appointed to the reconstituted UEZ Authority pursuant to P.L.2021, c.197 (C.52:27H-79.1 et al.), one shall serve for a term of two years, one shall serve for a term of three years, one shall serve for a term of four years, and one shall serve for a term of five years. Vacancies in the public membership shall be filled in the manner of the original appointments but for the unexpired terms.

3. Section 3 of P.L.2001, c.347 (C.52:27H-66.2) is amended to read as follows:

C.52:27H-66.2 "UEZ-impacted business district."

3. The authority shall designate a classification known as a "UEZ-impacted business district" for a municipality which can demonstrate to the authority that its business district is economically distressed and is being negatively impacted by the presence of two or more adjacent enterprise zones in which 50 percent less sales tax is collected pursuant to section 21 of P.L.1983, c. 303 (C.52:27H-80). Following the effective date of P.L.2021, c.197 (C.52:27H-79.1 et al.), the UEZ Authority shall not designate a business district as a UEZ-impacted business district. Any designation as a UEZ-impacted business district existing on the effective date of P.L.2021, c.197 (C.52:27H-79.1 et al.) shall expire on the first day of the third year next following the effective date of P.L.2021, c.197 (C.52:27H-79.1 et al.).

4. Section 9 of P.L.1983, c.303 (C.52:27H-68) is amended to read as follows:

C.52:27H-68 Preliminary zone development plan.

9. a. Prior to the effective date of P.L.2021, c.197, the governing body of a qualifying municipality may apply for designation as an enterprise zone, the municipal governing body shall cause a preliminary zone development plan to be formulated, either by a zone development corporation or by the governing body, with the assistance of those officers and agencies of the municipality as the governing body may see fit. For a municipality with a zone development plan that was approved more than five years prior to the effective date of P.L.2021, c.197, the governing body of the municipality shall submit an updated preliminary zone development plan pursuant to this section. In formulating an updated preliminary zone development plan pursuant to this section, a zone development corporation or the governing body of the municipality shall consult with representatives of diverse Statewide or regional business organizations that represent the interests of minority businesses, as defined in section 2 of P.L.1986, c. 195 (C.52:27H-21.18), which organizations shall have no less than 30 days to review a proposed preliminary zone development plan and submit comments to the zone development corporation or governing body. Each preliminary zone development plan shall set forth the boundaries of the enterprise zone and include findings of fact concerning the economic and social conditions existing in the enterprise zone, and the municipality's policy and intentions for addressing these conditions, and may include proposals respecting:

(1) Utilizing the powers conferred on the municipality by law for the purpose of stimulating investment in and economic development of the zone;

(2) Utilizing State assistance through the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) relating to State tax benefits and enterprise zone assistance funds;

(3) Securing the involvement in, and commitment to, zone economic development by private entities, including zone neighborhood associations, voluntary community organizations supported by residents and businesses in the zone;

(4) Utilizing the powers conferred by law to revise municipal planning and zoning ordinances and other land use regulations as they pertain to the zone, in order to enhance the attraction of the zone to prospective developers;

(5) Increasing the availability and efficiency of support services, public and private, generally used by and necessary to the efficient functioning of commercial and industrial facilities in the area, and the extent to which the increase or improvement is to be provided and financed by the municipal government or by other entities.

b. (1) The governing body of a municipality may request from the UEZ Authority an amount not to exceed 10 percent of the municipality's zone assistance fund allocation or $125,000, whichever is greater, to fund, in whole or in part, the costs associated with formulating a preliminary zone development plan, which amount the governing body may use to pay employees, or to retain a consultant, to formulate the plan. Prior to soliciting a consultant to formulate the plan with these funds, the governing body of a municipality shall submit to the UEZ Authority the proposed solicitation.

(2) The UEZ Authority shall review the proposed solicitation and may provide recommended modifications to the proposed solicitation. The governing body of a municipality or a zone development corporation may incur expenses related to the preparation of the preliminary zone development plan for potential reimbursement at a later time by the UEZ Authority from the municipality zone assistance fund account, provided the authority determines the expenses are reasonable. The governing body of a municipality or a zone development corporation shall complete a preliminary zone development plan with assistance from the UEZ Authority, as needed, in accordance with a timeline established by the authority pursuant to rules, regulations, or guidelines adopted by the authority.

(3) Within 14 days of receipt, unless the authority finds material deficiencies in a preliminary zone development plan, the authority shall approve and certify the preliminary zone development plan as the zone development plan. The zone development plan shall be the plan according to which the Urban Enterprise Zone program shall be administered in that zone, and certification of the plan shall enable the municipality to access assistance from the enterprise zone assistance fund described in section 10 of P.L.2021, c.197 (C.52:27H-88). Should the authority find deficiencies with a preliminary zone development plan, it shall provide a corrective action plan to the municipality.

c. If no zone development plan is in place, upon petition of the zone development corporation or governing body of the municipality, the UEZ Authority may grant a distribution from that municipality's zone assistance fund account for an eligible project that responds to an impact of a public health emergency or state of emergency declared by the Governor. A zone development corporation or governing body of a municipality without a zone development plan in place, which can demonstrate to the UEZ Authority an actionable and feasible plan to carry out a project eligible for zone assistance funds, and which can demonstrate a reliance on zone assistance funding, may petition the authority for a distribution from that municipality's zone assistance fund account prior to the authority's approval of an updated preliminary zone development plan.

d. No zone development plan shall remain in force once it has been certified by the UEZ Authority for more than five years. The governing body of a municipality or zone development corporation shall follow the process enumerated in subsections a. and b. of this section to ensure a zone development plan remains current to protect against lapse of enterprise zone designation.

e. Notwithstanding the provisions of this section to the contrary, a qualified business in an enterprise zone having such qualified status immediately preceding the effective date of P.L.2021, c.197, and which is qualified under P.L.2021, c.197, shall remain eligible for the exemptions from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to sections 20 and 21 of P.L.1983, c.303 (C.52:27H-79 and C.52:27H-80), and shall be eligible for the exemption under section 8 of P.L.2021, c.197 (C.52:27H-79.1) even if the municipality in which the business is located fails to submit a zone development plan in accordance with this section; provided, however, a municipality failing to submit a zone development plan under this section shall not be eligible for loans, grants, and other assistance from the UEZ Authority, and shall not be allowed a distribution from that municipality's zone assistance fund, except as provided for in subsection c. of this section, until a revised zone development plan is submitted and approved by the UEZ Authority.

5. Section 10 of P.L.1983, c.303 (C.52:27H-69) is amended to read as follows:

C.52:27H-69 Areas eligible for designation.

10. An area defined by a continuous border within one qualifying municipality shall be eligible for designation as a zone if:

a. It has been designated an "area in need of rehabilitation" pursuant to Article VIII, Section I, paragraph 6 of the Constitution of the State of New Jersey; or is qualified for that designation in the judgment of the authority; and

b. It meets the criteria established by the authority pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) relating to the incidence of poverty, unemployment and general economic distress.

6. Section 13 of P.L.1983, c.303 (C.52:27H-72) is amended to read as follows:

C.52:27H-72 Designation of areas as enterprise zones.

13. a. In designating eligible areas as enterprise zones, the authority shall approve zone development plans which:

(1) Have potential for success in stimulating primarily new economic activity in the area;

(2) Are designed to address urban distress, as measured by existing levels of unemployment, poverty, and property tax arrearages;

(3) Demonstrate substantial and reliable commitments of resources by zone businesses, zone neighborhood associations, voluntary community organizations and other private entities to the economic success of the zone;

(4) Demonstrate substantial effort and commitment by the municipality to encourage economic activity in the area and to remove disincentives for job creation compatible with the fiscal condition of the municipality.

b. In addition to the considerations set forth in subsection a. of this section, the authority in evaluating a zone development plan for designation purposes shall consider:

(1) The likelihood of attracting federal assistance to projects in the eligible area, and of obtaining federal designation of the area as an enterprise zone for federal tax purposes;

(2) The adverse or beneficial effects of an enterprise zone located at the proposed area upon economic development activities or projects of State or other public agencies which are in operation, or are approved for operation, in the qualifying municipality;

(3) The degree of commitment made by public and private entities to utilize minority contractors and assure equal opportunities for employment in connection with any construction or reconstruction to be undertaken in the eligible area;

(4) The impact of the zone development plan upon the social, natural and historic environment of the eligible area;

(5) The degree to which the implementation of the plan involves the relocation of residents from the eligible area, and the adequacy of commitments and provisions with respect thereto.

c. A designated zone that is operative on the effective date of P.L.2021, c.197 shall remain a designated zone until the end of the 10th State fiscal year next following the effective date of P.L.2021, c.197. The authority shall not designate new enterprise zones following the effective date of P.L.2021, c.197.

7. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to read as follows:

C.52:27H-79 Certain tax exemptions.

20. a. Except as provided in subsection b. of section 11 of P.L.2021, c.197 (C.52:27H-98), receipts from the first $100,000 of retail sales of tangible

personal property (except motor vehicles and energy) and sales of services (except telecommunications services and utility services) to a qualified business for the exclusive use or consumption of such business within an enterprise zone are exempt from the taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); provided, however, a supermarket or grocery store located in a food desert community, as defined in section 37 of P.L.2020, c.156 (C.34:1B-305) shall be eligible for such tax exemption, notwithstanding the limit imposed pursuant to this subsection.

b. (Deleted by amendment, P.L.2011, c.28)

c. As used in this section:

"Qualified business" includes a person who is certified as a qualified business by the authority and provided a UZ-5 certification by the authority. A person who is certified as a qualified business may apply to the authority for a UZ-5 certification provided the person owns or leases and regularly operates a place of business located in an eligible block group, as defined in subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99). The Department of the Treasury shall provide to a qualified business a certificate evidencing its UZ-5 certification, which certificate shall indicate the location at which the sales tax exemption provided for in this section is available.

d. (Deleted by amendment, P.L.2011, c.28)

e. (Deleted by amendment, P.L.2021, c.197)

C.52:27H-79.1 Exemption from taxation for certain receipts.

8. a. Receipts from the first $100,000 of retail sales of materials, supplies, and services for the exclusive use of erecting structures or buildings on, or improving, altering or repairing the real property of a qualified business, or a contractor hired by the qualified business to make such improvements, alterations, or repairs, are exempt from the taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); provided, however, receipts from retail sales of materials, supplies, and services for the exclusive use of erecting new structures or buildings on, or substantially improving, altering or repairing the real property of a qualified business shall be eligible for such tax exemption notwithstanding the limit imposed pursuant to this subsection.

b. As used in this section:

"Qualified business" includes a person who is certified as a qualified business by the authority and provided a UZ-4 certification by the authority. A person who is certified as a qualified business may apply to the authority for a UZ-4 certification provided that the person owns or leases and regularly operates a place of business located in an eligible block group, as defined in subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99). The

Department of the Treasury shall provide to a qualified business a certificate evidencing its UZ-4 certification, which certificate shall indicate the location at which the sales tax exemption provided for in this section is available.

"Substantially improving, altering, or repairing" means any reconstruction, rehabilitation, addition, or other improvement to a structure, of which the total cost equals to or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The UEZ Authority may, from time to time, alter this definition through regulation to respond to changing market conditions.

9. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to read as follows:

C.52:27H-80 Sales tax exemption for retail sales.

21. Receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages as defined in the "Alcoholic Beverage Tax Law," R.S.54:41-1 et seq., of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), of manufacturing machinery, equipment or apparatus, and of energy, made by a seller located in an eligible block group, as defined in subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99) and provided a UZ-2 certification by the authority from a place of business owned or leased and regularly operated by the seller for the purpose of making retail sales, and located in a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or a UEZ-impacted business district established prior to the effective date of P.L.2021, c.197 pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2), are exempt to the extent of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

Any seller, which is a qualified business having a place of business located in a designated enterprise zone or in a designated UEZ-impacted business district, may apply to the UEZ Authority for a UZ-2 certification pursuant to this section provided the seller is located in an eligible block group, as defined in subsection a. of section 12 of P.L.2021, c.197 (C.52:27H-99). The UEZ Authority shall certify a seller if the UEZ Authority shall find that the seller owns or leases and regularly operates a place of business located in the designated enterprise zone or in the designated UEZ-impacted business district for the purpose of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue or mail order sales. The certification under this section

shall remain in effect during the time the business retains its status as a qualified business meeting the eligibility criteria of section 27 of P.L.1983, c.303 (C.52:27H-86). However, the UEZ Authority may at any time revoke a certification granted pursuant to this section if the UEZ Authority shall determine that the seller no longer complies with the provisions of this section. The Department of the Treasury shall provide to a qualified business a certificate evidencing its UZ-2 certification, which certificate shall indicate the location at which the sales tax exemption provided for in this section is available.

Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) to the contrary, except as may otherwise be provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the authority may, in its discretion, determine if the provisions of this section shall apply to any enterprise zone designated after the effective date of P.L.1985, c.142 (C.52:27H-66 et al.); provided, however, that the authority may make such a determination only where the authority finds that the award of an exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse economic impact upon any other urban enterprise zone.

10. Section 29 of P.L.1983, c.303 (C.52:27H-88) is amended to read as follows:

C.52:27H-88 Enterprise zone assistance fund.

29. a. (1) There is created an enterprise zone assistance fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 11 of P.L.2021, c.197 (C.52:27H-98). All moneys deposited in the fund shall be held and disbursed in the amounts necessary to fulfill the purposes of this section and subject to the requirements hereinafter prescribed. The State Treasurer may invest and reinvest any moneys in the fund, or any portion thereof, to strengthen capital structures, leverage additional debt capital, and increase lending and investing in economically disadvantaged communities, and in any other manner that advances the goals of the Urban Enterprise Zone program, including, but not limited to legal obligations of the United States or of the State or of any political subdivision thereof or government-sponsored enterprises. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

Notwithstanding the provisions of section 11 of P.L.2021, c.197 (C.52:27H-98) or any other provision of law to the contrary, the amount to be deposited in the enterprise zone assistance fund shall be as follows:

(a) In the first five State fiscal years next following the effective date of P.L.2021, c.197, 100 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be deposited in the enterprise zone assistance fund;

(b) In the sixth State fiscal year next following the effective date of P.L.2021, c.197, 95 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be deposited in the enterprise zone assistance fund and five percent of such amount shall be deposited in the General Fund;

(c) In the seventh State fiscal year next following the effective date of P.L.2021, c.197, 90 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be deposited in the enterprise zone assistance fund and 10 percent of such amount shall be deposited in the General Fund;

(d) In the eighth State fiscal year next following the effective date of P.L.2021, c.197, 85 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be deposited in the enterprise zone assistance fund and 15 percent of such amount shall be deposited in the General Fund;

(e) In the ninth State fiscal year next following the effective date of P.L.2021, c.197, 80 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be deposited in the enterprise zone assistance fund and 20 percent of such amount shall be deposited in the General Fund; and

(f) In the 10th State fiscal year next following the effective date of P.L.2021, c.197, 75 percent of the amount determined pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) shall be deposited in the enterprise zone assistance fund and 25 percent of such amount shall be deposited in the General Fund.

(2) The State Treasurer shall maintain separate accounts for each enterprise zone designated under P.L.1983, c.303 (C.52:27H-60 et seq.) that is in good standing with the UEZ Authority in accordance with rules adopted by the UEZ Authority, and one in the authority's name for the administration of the Urban Enterprise Zone program, and for providing grants, including planning grants, investments, loans or other guaranties related to qualified assistance fund expenses. The State Treasurer shall credit to each account an amount of the moneys deposited in the fund determined by a weighted formula that applies 50 percent weight to a zone municipality's number of commercial and industrial parcels as recorded by the municipal tax assessor, its Municipal Revitalization Index Distress Score, as determined by the Department of Community Affairs, and the average number of unemployed persons in the municipality according to data provided by the New Jersey Department of

Labor and Workforce Development, and 50 percent weight to the gross taxable sales in the municipality subject to reduced sales tax pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), as determined by the State Treasurer. The data used in the formula, developed under this section, shall be the most recent data that has been made available by the Department of Community Affairs, the Department of Labor and Workforce Development, and the State Treasurer. When funds are received by a qualifying municipality pursuant to this subsection, the funds shall be placed in a new trust or, for a qualifying municipality that has a trust for an enterprise zone on the effective date of P.L.2021, c.197, in the existing trust. The Division of Local Government Services in the Department of Community Affairs shall promulgate regulations, policies, or procedures as necessary to implement the provisions of this section.

(3) From the amounts allocated to the zone assistance fund in each State fiscal year pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98), there shall be deposited annually to the account in the authority's name, $2,500,000 beginning in State Fiscal Year 2022, for the administration of the Urban Enterprise Zone program, and for providing grants, investments, loans, or other guaranties related to qualified assistance fund expenses. This amount shall be adjusted annually by the percentage change in the 12-month Consumer Price Index from June 30 to July 1.

(4) The State Treasurer shall promulgate the rules and regulations necessary to govern the administration of the fund for the purposes of this section, which shall include, but not be limited to, regulations requiring the establishment of separate bank accounts for funds credited to the enterprise zone account of each municipality from the enterprise zone assistance fund, commonly known as "first generation funds," and funds generated from the repayments of loans to individuals and businesses from the enterprise zone account of each municipality and the proceeds from the sale of properties and equipment acquired through the enterprise zone program, commonly known as "second generation funds," and the review, compilation, and monitoring of second generation fund quarterly reports submitted by each enterprise zone.

Any individual, including an individual who is not directly employed by a municipality, with the authority to administer, allocate or approve the use of zone assistance funds is subject to the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.), unless the individual is a State employee or a special State officer.

b. The enterprise zone assistance fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking economic development projects in designated enterprise zones

by funding qualified assistance fund expenses. However, a municipality shall not appropriate or expend more than 25 percent of the amount annually credited to its enterprise zone assistance fund for public safety purposes, as described pursuant to paragraph (4) of subsection m. of section 3 of P.L.1983, c.303 (C.52:27H-62) or more than 10 percent of the amount annually credited to its enterprise zone assistance fund for administrative expenses.

c. The governing body of a qualifying municipality in which an enterprise zone is designated and the zone development corporation created or designated by the municipality for that enterprise zone may, by resolution jointly adopted after public hearing, propose to undertake an economic development project in the enterprise zone, and to fund that project from moneys deposited in the enterprise zone assistance fund and credited to the account maintained by the State Treasurer for the enterprise zone.

The proposal so adopted shall set forth a plan for the project and shall include:

(1) A description of the proposed project;

(2) An estimate of the total project costs, and an estimate of the amounts of funding necessary annually from the enterprise zone account;

(3) A statement of any other revenue sources to be used to finance the project;

(4) A statement of the time necessary to complete the project;

(5) A statement of the manner in which the proposed project furthers the municipality's policy and intentions for addressing economic development in the enterprise zone as set forth in the zone development plan approved by the authority; and

(6) A description of the financial and programmatic controls and reporting mechanisms to be used to guarantee that the funds will be spent in accordance with the plan and that the project will accomplish its purpose.

As used in this section, "project" means an activity that satisfies the requirements of a qualified assistance fund expense, as that term is defined in subsection m. of section 3 of P.L.1983, c.303 (C.52:27H-62), and which will lead to the creation of new jobs and increased economic activity within the zone.

d. (Deleted by amendment, P.L.2021, c.197)

e. (Deleted by amendment, P.L.2021, c.197)

f. (Deleted by amendment, P.L.2021, c.197)

g. (Deleted by amendment, P.L.2021, c.197)

h. At the end of a State fiscal year, if a municipality has not encumbered a portion of its allocation, such amount may be carried forward to the next State fiscal year and the State fiscal year thereafter. If at the end of the third State fiscal year any of those unencumbered funds remain, then the funds shall be

transferred to the UEZ Authority's account in the enterprise zone assistance fund.

i. At the end of a State fiscal year, if a municipality has not expended or otherwise committed a portion of its encumbered funds, then such amount may be carried forward to the next three succeeding State fiscal years. If at the end of the third State fiscal year any unexpended funds remain, then the funds shall be transferred to the UEZ Authority's account in the enterprise zone assistance fund.

j. At the end of a State fiscal year, the Department of Community Affairs shall review an enterprise zone's expenditures of funds received from the zone assistance fund. If the department finds that an enterprise zone expended such funds in a manner inconsistent with the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) and P.L.2021, c.197, then the enterprise zone shall repay such funds to the department through the forfeiture of future zone assistance fund disbursements. The department shall withhold future funding from the enterprise zone until the enterprise zone enters into and complies with a corrective action plan developed by the department.

k. If in a State fiscal year the amount allocated to the enterprise zone assistance fund is less than the amount required to be allocated pursuant to section 11 of P.L.2021, c.197 (C.52:27H-98) and paragraph (1) of subsection a. of this section, the Legislature shall appropriate to the enterprise zone assistance fund the amount that was not allocated in such State fiscal year in a succeeding State fiscal year along with the funds required to be allocated in that State fiscal year.

C.52:27H-98 Tax expenditures for State fiscal years.

11. a. The combined State tax expenditures in State Fiscal Year 2022 for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases, as expressed in the Fiscal Year 2022 State of New Jersey Tax Expenditure Report, shall be the "ZAF base fund amount."

In State Fiscal Year 2023, the amount appropriated to the enterprise zone assistance fund shall be determined as follows: The State Treasurer, in consultation with the UEZ Authority, shall determine the combined State tax expenditures for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases in the six-month period beginning January 1, 2022 and ending June 30, 2022. The combined State tax expenditures for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases for the six-month period beginning January 1, 2022 and ending June 30, 2022, shall be multiplied by

two and then subtracted from the ZAF base fund amount. The difference shall be the State Fiscal Year 2023 appropriation to the enterprise zone assistance fund.

Beginning in State Fiscal Year 2024, and in each State fiscal year thereafter, the amount appropriated to the enterprise zone assistance fund shall be determined as follows: After January 1 but prior to June 30, the State Treasurer, in consultation with the UEZ Authority, shall develop a methodology to compare the combined State tax expenditures for the Urban Enterprise Zone Special Sales Tax Rate and Urban Enterprise Zone Exempt Business Purchases in the prior State fiscal year with the ZAF base fund amount to calculate the savings achieved by P.L.2021, c.197. The savings determined shall be the amount appropriated to the enterprise zone assistance fund for the State fiscal year.

b. Notwithstanding the provisions of subsection a. of this section, for State Fiscal Year 2023 and thereafter, the amount appropriated to the enterprise zone assistance fund shall not exceed $82,500,000, and in Fiscal Year 2024, and in each year thereafter, $82,500,000 as adjusted annually based on the percentage change in the 12-month Consumer Price Index from June 30 to July 1 of each year, and shall be no less than $60,000,000. If the application of the formulas set forth in subsection a. of this section will result in an appropriation to the enterprise zone assistance fund that is less than $60,000,000 in any State fiscal year, then the State Treasurer, in consultation with the UEZ Authority, shall impose a limit on the receipts from retail sales of tangible personal property and sales of services to a qualified business that are exempt from the sales and use tax pursuant to section 20 of P.L.1983, c.303 (C.52:27H-79); provided, however, that no less than the receipts from the first $50,000 of retail sales of tangible personal property and sales of services to a qualified business shall be exempt from the sales and use tax in accordance with section 20 of P.L.1983, c.303 (C.52:27H-79).

C.52:27H-99 Definitions, designation of qualified business.

12. a. As used in this section:

"Eligible block group" means a block group that is located in an enterprise zone on the effective date of P.L.2021, c.197.

b. The UEZ Authority shall notify each qualified municipality of each eligible block group within the municipality no later than 14 days after the effective date of P.L.2021, c.197. The UEZ Authority shall then certify the final eligible block groups to each municipality and shall post a link to a list of eligible block groups on the UEZ Authority's Internet homepage on the Department of Community Affair's Internet website.

c. A qualified business shall be located in an eligible block group. The certification of a qualified business that was certified as a qualified business on the effective date of P.L.2021, c.197 shall expire at the end of the 10th State fiscal year following the effective date of P.L.2021, c.197. However, the UEZ Authority may at any time revoke a certification if the UEZ Authority shall determine that the seller no longer complies with the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.).

d. The certification of a qualified business located in an eligible block group after the effective date of P.L.2021, c.197 shall expire at the end of the 10th State fiscal year following the State fiscal year in which the business was first certified as a qualified business. A business whose certification has expired shall not be eligible to seek a new certification.

C.52:27H-100 Annual report.

13. On or before June 30 of each year next following the effective date of P.L.2021, c.197, the State Treasurer shall provide to the UEZ Authority an annual report of the aggregate amount, expressed in dollars, of the incentives provided under P.L.1983, c.303 (C.52:27H-60 et seq.) to all qualified businesses and municipalities. The report shall include aggregate data on gross revenues, retail sales taxes collected, and shall also include information on the address, municipality, and industry of each business. All data from participating businesses shall be collected through an online application and consumer access portal, where possible.

C.52:27H-101 Annual review.

14. The UEZ Authority shall conduct an annual review that determines the number of participating businesses, unemployment rate, median household income, and number of jobs in each enterprise zone to assess the program's progress. The review shall also include the total tax expenditures by zone and total zone assistance funds expended as the requisite data becomes available from the annual report from the Department of the Treasury required pursuant to section 13 of P.L.2021, c.197 (C.52:27H-100). The UEZ Authority shall review the status of any projects that were approved by participating enterprise zones, overall enterprise zone performance, and adherence to the zone development plans. Each review shall include a detailed listing of deliverables by each enterprise zone and the State that are to be implemented and subsequently evaluated in the future.

C.52:27H-102 Memorandum of understanding.

15. The UEZ Authority and the Department of Labor and Workforce and Development shall enter into a memorandum of understanding to assist in

substantial and comprehensive data gathering and information sharing between the two agencies to further the UEZ Authority's ability to evaluate enterprise zone performance and compliance, and to initiate enforcement actions.

C.52:27H-103 Certain new applications not accepted.

16. Following the effective date of P.L.2021, c.197, no new applications for the enterprise zone employee tax credit, pursuant to section 19 of P.L.1983, c.303 (C.52:27H-78), or for the corporation business tax exemption, pursuant to section 17 of P.L.1983, c.303 (C.52:27H-76), shall be accepted.

17. Section 7 of P.L.1989, c.207 (C.54:4-3.145) is amended to read as follows:

C.54:4-3.145 Financial agreement; payments in lieu of taxes.

7. a. Each approved abatement shall be evidenced by a financial agreement between the qualified municipality and the applicant. The agreement shall be prepared by the applicant and shall contain the representations that are required by the enabling ordinance. The agreement shall provide for the applicant to annually pay to the municipality an amount in lieu of real property taxes, to be computed according to either subsection b. or c. of this section, as provided for in the enabling ordinance.

b. Payments in lieu of taxes may be computed as two percent of the cost of the improvements or conversion alterations, as appropriate for five years following such completion and in the sixth and all subsequent tax years following completion, 100% of the equalized taxes otherwise due; or

c. Payments in lieu of taxes may be computed in the discretion of the qualified municipality as a portion of the real property taxes otherwise due, provided that in the sixth and all subsequent tax years following completion, payments in lieu of taxes shall equal 100% of the equalized taxes otherwise due.

d. For the purposes of this section, the amount of "taxes otherwise due" (not to be confused with "equalized taxes otherwise due") shall be determined by including the appropriate percentage of the assessed valuation of the abated structure, improvement or conversion alteration, as the case may be, on the assessment list of the municipality as taxable property, and levying taxes thereon in the same manner as other taxes are levied pursuant to chapter 4 of Title 54 of the Revised Statutes; provided, however, that no value for a property subject to the provisions of this act shall be included in the calculation of the "net valuation on which county taxes are apportioned" until the first tax year for which a municipal-wide revaluation is implemented.

Repealer.

18. The following sections of law are repealed:
Section 4 of P.L.2001, c.347 (C.52:27H-66.3);
Section 6 of P.L.2001, c.347 (C.52:27H-66.5);
Section 11 of P.L.2001, c.347 (C.52:27H-66.6);
Section 16 of P.L.1983, c.303 (C.52:27H-75); and
Section 9 of P.L.1988, c.93 (C.52:27H-80.2).

19. There is appropriated $42,500,000 from the General Fund to the enterprise zone assistance fund established under section 29 of P.L.1983, c.303 (C.52:27H-88) for the purposes of that fund, and for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-88).

20. This act shall take effect immediately; provided however, that section 8 and the amendments made by this act to section 20 of P.L.1983, c.303 (C.52:27H-79), shall apply to sales and uses on and after January 1, 2022.

Approved August 17, 2021.

CHAPTER 198

AN ACT requiring the counting of an incarcerated individual at the individual's residential address for municipal, county, and congressional redistricting purposes and for the apportionment of regional school district board of education members, amending N.J.S.18A:13-8 and P.L.2017, c.45, and supplementing P.L.2019, c.385 (C.52:4-1.1 et seq.).

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

C.52:4-1.6 Reporting of certain data to the Apportionment Commission.

1. a. Upon reporting the data determined under section 4 of P.L.2019, c.385 (C.52:4-1.4) to the members of the Apportionment Commission pursuant to section 5 of P.L.2019, c.385 (C.52:4-1.5), the Secretary of State shall also report the same to the members of the New Jersey Redistricting Commission established under Article II, Section II, paragraphs 1 through 9 of the New Jersey Constitution and P.L.1991, c.510 (C.19:46-6 et seq.) for the establishment of congressional districts; to the members of each county district commission for the establishment of the county districts under section 121 of P.L.1972, c.154 (C.40:41A-121); to the members of each ward

commission for the establishment of the municipal wards under section 7 of P.L.1981, c.496 (C.40:44-15), and to each entity responsible for the apportionment of the members of each board of education of a regional school district pursuant to the provisions of N.J.S.18A:13-8, and sections 1 and 3 of P.L.2017, c.45 (C.18A:13-34a and C.18A:13-46.1, respectively).

b. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the data prepared by the secretary under section 4 of P.L.2019, c.385 (C.52:4-1.4), together with data provided by the bureau pursuant to Pub.L.94-171 (13 U.S.C. s.141), shall be the basis of the congressional districts established by the New Jersey Redistricting Commission, of county districts established by each county district commission, and of municipal wards established by each municipal ward commission. To the greatest extent practicable, congressional districts, county districts, and municipal wards shall be drawn so as to meet equal population requirements calculated under both data sets. Residences at unknown geographic locations within the State described in section 4 of P.L.2019, c.385 (C.52:4-1.4) shall not be used to determine the ideal population of any set of districts or wards.

c. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the data prepared by the secretary under section 4 of P.L.2019, c.385 (C.52:4-1.4) shall be the basis of the apportionment of the members of each board of education of a regional school district pursuant to chapter 13 of Title 18A of the New Jersey Statutes. Residences at unknown geographic locations within the State described in section 4 of P.L.2019, c.385 (C.52:4-1.4) shall not be used to determine the apportionment of each board of education of a regional school district.

2. N.J.S.18A:13-8 is amended to read as follows:

Boards of education of regional districts.

18A:13-8. The board of education of a regional district shall consist of nine members unless it consists of more than nine constituent districts, in which case the membership shall be the same as the number of constituent districts, plus one. Except as otherwise provided pursuant to section 1 or section 3 of P.L.2017, c.45 (C.18A:13-34a or C.18A:13-46.1), if there are nine or less constituent districts, the members of the board of education of the regional district shall be apportioned by the executive county superintendent or executive county superintendents of the county or counties in which the constituent districts are situate, among said districts as nearly as may be according to the number of their inhabitants except that each constituent district shall have at least one member.

In making the apportionment of the membership of a regional board of education among the several school districts uniting to create a regional school district having nine or less constituent districts, as required by section 18A:13-36, there shall be subtracted from the number of inhabitants of a constituent school district, as shown by the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6), the number of such inhabitants who according to the records of the Federal Bureau of the Census were patients in any State or federal hospital, or who are military personnel stationed at, or civilians residing within the limits of, any United States Army, Navy or Air Force installation, located in such constituent school district.

Except as otherwise provided pursuant to section 1 or section 3 of P.L.2017, c.45 (C.18A:13-34a or C.18A:13-46.1), if there are more than nine constituent districts, the members on the board shall be apportioned among the constituent districts and the weight of their votes in all proceedings of the board shall be determined by the appropriate executive county superintendent or superintendents through the following procedure:

a. The number of inhabitants of each constituent district shall be determined as shown by the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6).

b. A representative ratio shall be calculated by adding the number of inhabitants of all constituent districts and dividing the sum by the board size.

c. All constituent districts shall be listed in ascending order of their number of inhabitants. If the first constituent district in said list has a number of inhabitants which is less than the representative ratio, it shall be combined with the constituent district contiguous to it having the smallest number of inhabitants. This process shall be repeated for each successively larger constituent district or combination of constituent districts until all remaining constituent districts or combinations of constituent districts shall have a number of inhabitants equal to, or exceeding the representative ratio. The districts formed in this manner shall be known as representative districts.

d. There shall be established a priority list according to the method of equal proportions for the apportionment of the members of the regional district board of education among the representative districts.

e. The members of the regional district board of education shall be apportioned among the representative districts according to the method of equal proportions, and where a representative district is composed of more than one constituent district, members shall be elected at large from within the representative district.

f. The number of inhabitants of each representative district shall be divided by the number of members assigned to that district to find the number of inhabitants per member.

g. The vote to be cast by each member of the regional district board of education in all proceedings of the board shall be determined by dividing the number of inhabitants per member in the representative district from which the member is elected by the representative ratio for the regional district, and rounding off the quotient to the nearest tenth of a full vote.

Wherever any statute or bylaw of the board requires decision in any matter by vote of a majority of the board members, or of the members present, this shall be interpreted as meaning a majority of the weighted votes of all members, or of the members present, as the case may be.

h. Whenever the above reapportionment procedure is used for a regional district having more than nine constituent districts, the terms of office of all incumbent board of education members shall terminate on the day on which the annual organization meeting of the board is held pursuant to N.J.S.18A:13-12 following certification by the executive county superintendent of the representative districts and the number of members to be elected from each; provided, that if the reapportionment results in any representative district retaining its former boundaries and the same number of board members, that the members elected from such a district shall serve the full term for which they were elected. All other board members shall be elected in an election to be held on the date of the annual school election at least 60 days following certification by the executive county superintendent for initial terms of office to be designated in advance by the executive county superintendent so that, as nearly as possible, one-third of the board shall be elected in each future year, to serve for three-year terms, and where a representative district has more than one member, their terms of office shall terminate in different years.

If any constituent district is a consolidated district, or a district composed of two or more municipalities, and

a. The original district is a limited purpose regional district and such constituent district has such population that it is entitled to have apportioned to it a number of members equal to or greater than the number of districts making up such constituent district, or

b. The regional district is an all purpose district, the membership of the regional board of education from such district shall be apportioned, and from time to time reapportioned, and the members from the district shall be elected, as their respective terms expire, in the same manner as though each of the municipalities making up such constituent district were constituent districts of the regional district.

3. Section 1 of P.L.2017, c.45 (C.18A:13-34a) is amended to read as follows:

C.18A:13-34a Board of education for newly created regional district.

1. Notwithstanding any section of law to the contrary, the boards of education proposing to form a newly created regional school district may by resolution frame and adopt a proposal to calculate and apportion the membership of the board of education of the newly created regional district other than in accordance with the provisions of N.J.S.18A:13-8. If the commissioner approves the alternative apportionment, then that alternative apportionment shall be included in the consultation, study, and investigation conducted pursuant to N.J.S.18A:13-34 to determine whether it is advisable for school districts to form a newly created regional school district. If the commissioner or his representative determines that it is advisable for such districts to form a newly created regional school district, and the question of whether or not the proposal to create a regional district is submitted to the voters pursuant to N.J.S.18A:13-34, and the proposal is adopted by the voters pursuant to N.J.S.18A:13-35, then the members of the board of education of the regional district shall be elected in accordance with such alternate apportionment. Notwithstanding any provision of this section to the contrary, the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6) shall be the basis for apportionment under this section.

4. Section 3 of P.L.2017, c.45 (C.18A:13-46.1) is amended to read as follows:

C.18A:13-46.1 Apportionment of membership of enlarged district board of education.

3. a. Notwithstanding the provisions of any section of law to the contrary, the board of education of a regional district and the board or boards of education of one or more local districts determined to enlarge the regional school district may by resolution frame and adopt a proposal to calculate and apportion the membership of the enlarged board of education other than in accordance with the provisions of N.J.S.18A:13-8 and N.J.S.18A:13-36. If the commissioner approves the alternative apportionment, then that alternative apportionment shall be included in the consultation, study, and investigation conducted pursuant to N.J.S.18A:13-43 to determine whether it is advisable to enlarge the regional school district to include the local district or districts therein. If the commissioner or his representative determines that it is advisable to enlarge the regional school district to

include the local district or districts therein, and the question of whether or not the proposal to enlarge the regional district is submitted to the voters pursuant to N.J.S.18A:13-43, and the proposal is adopted by the voters pursuant to N.J.S.18A:13-44, then the members of the enlarged board of education of the regional district shall be elected in accordance with the alternate apportionment.

For an enlarged regional district with a board of education apportioned pursuant to this section, the executive county superintendent of the county in which any new constituent district of an enlarged regional district is situate shall, not later than 30 days after the election for the enlargement thereof, appoint one member of the enlarged board of education of the regional district from among the qualified citizens of each new constituent district, and the members so appointed shall serve until the first Monday succeeding the first annual April school election of the enlarged regional district. In the case of a regional district in which the annual school election is in November, the members so appointed shall serve until the first week in January next succeeding the first annual November school election of the enlarged regional district.

b. The commissioner shall reapportion the membership of the enlarged board of education in accordance with the alternative apportionment determined pursuant to this section, and shall designate the number of members to be elected from each constituent school district. All members of the board of education of the enlarged regional district shall be elected in accordance with the alternative apportionment at the next annual school election after the election to enlarge the regional district.

c. The commissioner shall allocate the initial elective terms for the first elective members of the enlarged board in the following manner:

(1) In regional districts having nine members, three members shall be elected for three years, three for two years and three for one year, which terms shall be allocated to the constituent districts to the extent of apportioned membership on the regional board of education, starting with the allocation of the terms of three years, by allocating one of such terms to each of the constituent districts in the alphabetical order of the names of such districts, and continuing then still in such order with allocation of the terms of two years and with allocation of the terms of one year.

(2) In regional districts in which there are more than nine constituent school districts, the allocation for the tenth district shall be a term of three years, for the eleventh district a term of two years, and for the twelfth district a term of one year, with continuation of such rotation until provision has been made for allocation of the terms to all districts.

d. Notwithstanding any provision of this section to the contrary, the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6) shall be the basis for apportionment under this section.

5. This act shall take effect immediately.

Approved August 20, 2021.

CHAPTER 199

AN ACT concerning correctional and detention facilities and supplementing Title 30 of the Revised Statutes.

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

C.30:4-8.15 Findings, declarations.

1. The Legislature finds and declares that:

a. It is the responsibility of the State to ensure respect for the human rights and civil rights of all people detained within New Jersey.

b. It is the responsibility of the State to protect the health and safety, including the physical and mental health, of individuals detained within New Jersey.

c. Detention centers and correctional facilities in New Jersey have a history of poor conditions, including inadequate medical and mental health care, use of isolated confinement, and incidents of violence and retaliation against people in detention.

d. In keeping with its obligation to protect and advance the health and just treatment of all people within the State of New Jersey, it is therefore the intent of the Legislature to prevent new, expanded, or renewed agreements to detain people for civil immigration purposes.

C.30:4-8.16 Definitions.

2. a. As used in this act:

"Immigration detention agreement" means any contract, agreement, intergovernmental service agreement, or memorandum of understanding that authorizes the State, local government agency, or private detention facility to house or detain individuals for civil immigration violations.

"Local government agency" means a county, county sheriff, municipality, or other political subdivision and any agency, officer, employee, or agent thereof.

"Private detention facility" means any privately owned or operated facility that houses or detains individuals for civil immigration violations.

b. On or after the effective date of this act:

(1) the State or a local government agency shall not enter into, renew, or extend any immigration detention agreement as defined in subsection a. of this section; or

(2) a private detention facility operating in this State shall not enter into, renew, or extend any immigration detention agreement as defined in subsection a. of this section.

c. Nothing in this section shall be construed to prohibit, or in any way restrict, any action where the prohibition or restriction would be contrary to federal law, the United States Constitution, or the New Jersey Constitution.

3. This act shall take effect immediately.

Approved August 20, 2021.

CHAPTER 200

AN ACT establishing the School and Small Business Energy Efficiency Stimulus Program Fund in the Board of Public Utilities and supplementing Title 48 of the Revised Statutes.

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

C.48:3-106.1 Definitions.

1. As used in in P.L.2021, c.200 (C.48:3-106.1 et seq.):

"ANSI" means American National Standards Institute.

"ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

"Board" means the Board of Public Utilities or any successor agency.

"Board of education" means and includes the board of education of any local school district, consolidated school district, regional school district, county vocational school and any other board of education or other similar body other than the State Board of Education, the Commission on Higher Education or the Presidents' Council, established and operating under the provisions of Title 18A of the New Jersey Statutes and having authority to make purchases and to enter into contracts for the provision or performance

of goods or services. "Board of education" shall include the board of trustees of a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.).

"Certified energy auditor" means a commercial entity determined to be qualified by the board to conduct and develop an energy audit meeting the standards of ASHRAE Level II and III, including those qualified by the Division of Property Management and Construction in the Department of the Treasury.

"Certified TAB technician" means a technician certified to perform testing, adjusting, and balancing of HVAC systems by the Associated Air Balance Council (AABC), the National Environmental Balancing Bureau (NEBB), or the Testing, Adjusting and Balancing Bureau (TABB).

"Coronavirus 2019" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

"HVAC" means heating, ventilation, and air conditioning.

"MERV" means minimum efficiency reporting value.

"Noncompliant appliance" means all of the following:

a. a commercial dishwasher that was manufactured prior to January 1, 2010, that does not meet the efficiency requirement of the Energy Star Product Specification for Commercial Dishwashers, Version 1.1;

b. an automatic commercial ice maker that was manufactured prior to January 1, 2010, that does not meet the efficiency requirement of the Energy Star Product Specification for Automatic Commercial Ice Makers, Version 1; or

c. a commercial clothes washer that was manufactured prior to 1 January 1, 2010, that does not meet the efficiency requirement of the Energy Star Product Specification for Clothes Washers, Version 5.0.

"Noncompliant plumbing fixture" means:

a. a toilet manufactured to use more than 1.6 gallons of water per flush;

b. a urinal manufactured to use more than one gallon of water per flush;

c. a showerhead manufactured to have a flow capacity of more than 2.5 gallons of water per minute; or

d. an interior faucet that emits more than 2.2 gallons of water per minute.

"PPM" means parts per million.

"Program fund " means the School and Small Business Energy Efficiency Stimulus Program Fund established pursuant to section 2 of P.L.2021, c.200 (C.48:3-106.2).

"Qualified adjusting personnel" or "qualified testing personnel" means either of the following:

a. a certified TAB technician; or

b. a skilled and trained workforce under the supervision of a certified TAB technician.

"Registered apprenticeship program" means a plan containing all the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, as required under Part 29 and Part 30 of Title 49 of the Code of Federal Regulations, including meeting all requirements set forth under section 2 of P.L.2019, c.518 (C.34:11-56.71).

"Skilled and trained workforce" means a workforce where at least 60 percent of the construction workers are graduates of a registered apprenticeship program for the applicable occupation.

"Small business" means a sole proprietorship, partnership or corporation that has its principal place of business in the State, is of a size and type determined by the board, and is a women's business or minority business, as those terms are defined in section 2 of P.L.1987, c.55 (C.52:27H-21.8).

"SSBNPFA Program" means the School and Small Business Noncompliant Plumbing Fixture and Appliance Program established pursuant to section 5 of P.L.2021, c.200 (C.48:3-106.5).

"SSBVEEVR Program" means the School and Small Business Ventilation and Energy Efficiency Verification and Repair Program established pursuant to section 4 of P.L.2021, c.200 (C.48:3-106.4).

"TAB" means testing, adjusting, and balancing.

"Underserved community" means a school district in which at least 75 percent of public school students are eligible to receive free or reduced-price meals under the National School Lunch Program established pursuant to the "Richard B. Russell National School Lunch Act," Pub.L.79-396 (42 U.S.C. s.1751 et seq.).

"Water-conserving appliance" means any of the following:

a. a commercial dishwasher that meets the criteria of the Energy Star Product Specification for Commercial Dishwashers, Version 2.0, or any revision to those criteria published by the United States Environmental Protection Agency that is adopted by the board for the program;

b. an automatic commercial ice maker that meets the criteria of the Energy Star Product Specification for Automatic Commercial Ice Makers, Version 3.0, or any revision to those criteria published by the United States Environmental Protection Agency that is adopted by the board for the program; or

c. a commercial clothes washer that meets the criteria of the Energy Star Product Specification for Clothes Washers, Version 8.0, or any revision to those criteria published by the United States Environmental Protection Agency that is adopted by the board for the program.

C.48:3-106.2 School and Small Business Energy Efficiency Stimulus Program Fund.

2. a. The Board of Public Utilities shall establish and administer a fund to be known as the School and Small Business Energy Efficiency Stimulus Program Fund for the purpose of providing grants to boards of education and small businesses for the installation of certain HVAC systems and energy efficient and water-conserving appliances to improve air quality and energy efficiency in school districts under the jurisdiction of a board of education and small businesses, including school districts and small businesses in underserved communities. The monies deposited into the program fund shall only be used to support the following programs:

(1) The School and Small Business Ventilation and Energy Efficiency Verification and Repair Program; and

(2) The School and Small Business Noncompliant Plumbing Fixture and Appliance Program.

b. Seventy-five percent of projects funded by the SSBVEEVR Program or SSBNPFA Program shall be allocated for school districts and small businesses located in underserved communities.

c. The board shall begin to solicit applications from boards of education and small businesses for grants made pursuant to this section on or before October 1, 2021 and begin to approve applications for a grant no later than December 1, 2021, subject to the availability of funds.

d. The program fund shall be funded by monies provided to the State from the federal government under the "American Rescue Plan Act of 2021," Pub. L. 117-2, as determined by the board, and shall be allocated as follows:

(1) 75 percent of funds for the SSBVEEVR Program; and

(2) 25 percent of funds for the SSBNPFA Program.

e. Seventy-five percent of grant funds issued pursuant to this section shall be awarded to school districts and the remaining 25 percent shall be awarded to small businesses.

f. Program grants made pursuant to this section shall provide no more than 75 percent of the cost of projects approved by the board, with the remaining 25 percent covered by non-SSBVEEVR or non-SSBNPFA funding sources, as applicable.

C.48:3-106.3 Modifications to law, regulation that may interfere with expedited award.

3. a. Notwithstanding the provisions of any other law to the contrary, for the purpose of expediting the board's procurement of technical services to administer the SSBVEEVR and the SSBNPFA Programs, the following provisions shall apply as modifications to law or regulation that may interfere with the expedited award of the above services:

(1) the procurement may be done by the board itself consistent with the requirements of sections 2, 3, 4, and 5 of P.L.1954, c.48 (C.52:34-7, C.52:34-8, C.52:34-9, and C.52:34-10), with the board authorizing a waiver of advertising under subsection (a) of section 4 of P.L.1954, c.48 (C.52:34-9) and approving the final contract by resolutions of the board;

(2) the timeframes for challenging the award of the contract may be modified as determined by the board;

(3) the board may amend any existing contract with a vendor administering another board energy efficiency program to assist with the administering of the SSBVEEVR and the SSBNPFA Programs until the contract to be awarded pursuant to this section is executed; and

(4) the period of time that the State Comptroller has to review the request for proposals for these professional services procurements for compliance with applicable public contracting laws, rules and regulations, pursuant to section 10 of P.L.2007, c.52 (C.52:15C-10), shall be 10 business days or less if practicable, as determined by the State Comptroller.

b. The board may, to the extent necessary, waive or modify any other regulation, or for any bidder, any applicable requirement in chapters 25, 32, 34 of Title 52 of the Revised Statutes, that may interfere with the expeditious procurement of these services.

C.48:3-106.4 SSBVEEVR program.

4. a. The board shall establish and administer the SSBVEEVR Program to award grants to boards of education and small businesses to ensure schools under board of education jurisdiction and small businesses shall have functional HVAC systems that are tested, adjusted, and, if necessary or cost effective, repaired, upgraded, or replaced to increase efficiency and performance.

b. (1) A board of education or small business may apply for a grant pursuant to section 2 of P.L.2021, c.200 (C.48:3-106.2) by submitting an application to the board, in a form and manner determined by the board, for reasonable costs of the HVAC assessment, assessment report, deferred general maintenance, adjustment of ventilation rates, filter replacement, system replacement, and carbon dioxide monitor installation.

(2) The board shall adjust energy efficiency savings targets, as necessary, to ensure that energy savings created through the expenditures made pursuant to P.L.2021, c.200 (C.48:3-106.1 et seq.) are not double counted in any public utility energy efficiency program.

c. (1) The board shall award a grant if the amount requested in the application is verified by the estimate of a certified energy auditor and the

board of education and small business meet other requirements determined by the board to be appropriate to achieve the purposes of P.L.2021, c.200 (C.48:3-106.1 et seq.). A grant that meets the board's criteria shall be awarded in the amount requested. The board may allow for supplementary requests for contingency funding, an additional amount, up to 20 percent of the requested amount for repairs, upgrades, or replacements necessary, as identified by the certified energy auditor, to make the system functional or more energy efficient.

(2) If a certified energy auditor identifies cost-effective energy efficiency upgrades or repairs that would exceed the additional 20 percent awarded, a board of education or small business may apply for additional funding for the cost-effective energy efficiency upgrades or repairs through the board's existing energy efficiency programs, which shall receive priority treatment.

(3) The board shall have the authority to establish the timing of grant funding, including the ability to provide some or all funding in advance of the performance of work where requirements to ensure performance are established.

d. (1) Qualified testing personnel or qualified adjusting personnel shall do all of the following:

(a) for a board of education or small business receiving a grant to install filtration with a MERV of 13 or better in the HVAC system of a school and small business building, where feasible, qualified testing personnel shall review system capacity and airflow to determine the highest MERV filtration that can be installed without adversely impacting equipment, shall replace or upgrade filters where needed, and shall verify that those filters are installed correctly. If a HVAC system uses ultraviolet germicidal irradiation to disinfect the air, the ultraviolet germicidal irradiation lamp shall be checked for proper operation, replacing bulbs as needed and verifying that the ultraviolet light does not shine on filters. Recommendations for additional maintenance, replacement, or upgrades to allow for more protective filtration shall be recorded in the assessment report;

(b) for HVAC systems with economizers, qualified testing personnel shall test HVAC system economizer dampers. Economizer dampers and controls that are not properly functioning shall be repaired by a skilled and trained workforce. Recommendations for additional maintenance, replacement, or upgrades shall be recorded in the assessment report;

(c) concerning a school building, after completing the requirements of subparagraph (b) of this paragraph, qualified testing personnel shall verify the ventilation rates in the school and small business building, and other occupied areas to assess whether they meet the minimum ventilation rate requirements set forth in ANSI/ASHRAE Standard 62.1-2019, Ventilation

for Acceptable Indoor Air. Assessment, which shall include all of the following:

(i) a calculation of the required minimum outside air ventilation rates for each occupied area based on the anticipated occupancy and the minimum required ventilation rate per occupant. Calculations shall be based on maximum anticipated building or other occupied area occupancy rates and determined by the performing technician. Natural ventilation shall be designed in accordance with Section 402 of the 2018 International Mechanical Code and shall include mechanical ventilation systems designed in accordance with Section 403 of the 2018 International Mechanical Code; and

(ii) the measurement of outside air and verification of whether the HVAC system provides the minimum outside air ventilation rates calculated under this subparagraph;

If the HVAC system does not meet the minimum ventilation rate requirements, the certified energy auditor or qualified adjusting personnel shall review the HVAC system airflow and capacity to determine if additional ventilation can be provided without adversely impacting equipment performance and building indoor environmental quality. If additional ventilation can be provided, qualified adjusting personnel shall adjust ventilation rates to meet the minimum ventilation rate requirements set forth, pursuant to this paragraph, to the extent feasible. After the adjustment, the measurement of outside air and verification of whether the HVAC system provides the minimum outside air ventilation rates calculated under this subparagraph shall be repeated. If minimum ventilation rate requirements cannot be met, this deficiency shall be reported in the assessment report and the verification report and shall be addressed by a certified energy auditor, as required;

(d) survey readings of inlets and outlets to verify that all ventilation is reaching the served zone and that there is adequate distribution. Qualified testing personnel or qualified adjusting personnel shall verify if inlets and outlets are balanced within tolerance of the system design. Qualified testing personnel or qualified adjusting personnel shall document read values and deficiencies. If the original HVAC system design values are not available, qualified testing personnel or qualified adjusting personnel shall document the available information and note the unavailability of HVAC system design values in the assessment report;

(e) verify building pressure relative to the outdoors to ensure positive pressure differential and to ensure the building is not over pressurized;

(f) verify coil velocities and coil and unit discharge air temperatures as required to maintain desired indoor conditions and to avoid moisture carry over from cooling coils;

(g) verify that separation between outdoor air intakes and exhaust discharge outlets meet requirements of the 2018 International Mechanical Code;

(h) confirm that the air handling unit is bringing in outdoor air and removing exhaust air as intended by the system design;

(i) measure all exhaust air volume for exhaust fans, including restrooms and document any discrepancies from system design;

(j) if a demand control ventilation system is installed, qualified testing personnel or qualified adjusting personnel shall test it and adjust the ventilation to a carbon dioxide set point of 800 PPM or less. If the demand control ventilation system does not maintain average daily maximum carbon dioxide levels below 1,100 PPM, it shall be disabled until such time as the board of education or small business determines that the COVID-19 pandemic has ended, unless disabling the control would adversely affect operation of the overall system. When disabling a demand control ventilation system, the system shall be configured to meet the minimum ventilation rate requirements and tested and adjusted in accordance with subparagraph (b) of this paragraph. Recommendations for additional maintenance, replacement or upgrades shall be recorded in the assessment report;

(k) a qualified testing personnel or a skilled and trained workforce shall verify coil condition, condensate drainage, cooling coil air temperature differentials, heat exchanger operation, and drive assembly. If repairs, replacement, or upgrades are necessary, these deficiencies shall be reported in the assessment report and the verification report, and addressed by a certified energy auditor;

(l) review control sequences to verify the HVAC systems will maintain intended ventilation, temperature and humidity conditions during school and small business operation. Previously unoccupied buildings shall perform the recommended practices of reopening a building as covered in the ASHRAE Building Readiness document – Restarting a Building;

(m) verify a daily flush is scheduled for two hours before and after scheduled occupancy or demonstrate calculation of flush times per ASHRAE Guidance for Reopening and Operating Schools and Buildings or otherwise applicable local or State guidance; and

(n) verify that HVAC system operational times, exhaust fans operation times, setpoints, and enabled features meet ASHRAE Guidance for Reopening and Operating Schools and Buildings or otherwise applicable local or State guidance.

(2) Requirements for filtration levels, ventilation rates, and ventilation schedules may be amended by the board based on the latest COVID-19 or other applicable guidance.

(3) If installed HVAC systems or system components are broken, fail to meet minimum ventilation requirements, or are unable to operate to the original design and intent, this information shall be set forth in the assessment report prepared and be provided to a certified energy auditor for determination of appropriate corrective measures. Repairs, upgrades, or replacements shall be performed by a skilled and trained workforce.

(4) (a) For a school building, to ensure proper ventilation is maintained throughout the school year, all classrooms shall be equipped with a carbon dioxide monitor that meets all of the following requirements:

(i) the monitor shall be hard-wired or plugged-in and mounted to the wall between three and six feet above the floor and at least five feet away from the door and operable windows;

(ii) the monitor shall display the carbon dioxide readings to the teacher or other building staff through a display on the device or other means such as a web-based application or cellular phone application;

(iii) the monitor shall provide a notification through a visual indicator on the monitor, such as an indicator light, or other alert system, such as an electronic mail, text, or cellular telephone application, when the carbon dioxide levels in the classroom have exceeded 1,100 PPM;

(iv) the monitor shall maintain a record of previous data that includes at least the maximum carbon dioxide concentration measured;

(v) the monitor shall have a carbon dioxide concentration range of 400 PPM to 2000 PPM or greater; and

(vi) the monitor shall be certified by the manufacturer to be accurate within 75 PPM at 1,000 PPM carbon dioxide concentration and certified by the manufacturer to require calibration no more frequently than once every five years.

(b) If a classroom carbon dioxide concentration exceeds 1,100 PPM more than once a week as observed by the teacher or other building staff, the classroom ventilation rates shall be adjusted by qualified personnel to ensure peak carbon dioxide concentrations in the classroom remain below the maximum allowable carbon dioxide PPM setpoint. Verification of the installation of carbon dioxide monitors in all classrooms shall be included in the assessment report.

(c) The requirements of subsubparagraphs (i) to (vi) of subparagraph (a) of this paragraph, may be amended by the board as necessary to reflect available technology and to achieve the intent of this paragraph.

(5) A qualified testing personnel or qualified adjusting personnel shall prepare an assessment report for review by a certified energy auditor. The certified energy auditor shall review the assessment report and determine what, if any, additional adjustments or repairs would be necessary to meet the minimum ventilation and filtration requirements, determine whether any cost-effective energy efficiency upgrades or replacements are warranted or recommended, and provide an estimated cost for this work. If the cost of recommended repairs, upgrades, or replacements are greater than the contingency amount provided in the grant, then the certified energy auditor and the board of education and small business shall submit an application for additional funding pursuant to this section. The provision of any additional funding for repairs, upgrades, or replacements shall be conditioned on the applicant ensuring that all construction work funded, in whole or in part, by the additional funding is performed by a skilled and trained workforce. The assessment report shall include all of the following information:

(a) name and address of the school and small business building and person or contractor preparing and certifying assessment report;

(b) documentation of HVAC equipment model number, serial number, general condition of unit, and any additional information that could be used to assess replacement and repair options given potential for increased energy efficiency benefits;

(c) either verification that MERV 13 filters have been installed or verification that the maximum MERV-rated filter that the HVAC system is able to effectively handle has been installed and what that MERV-rating is;

(d) for a school building, the verified ventilation rates for facility classrooms, auditoriums, gymnasiums, nurses' offices, restrooms, offices, and other occupied areas, and whether those rates meet the requirements set forth in ANSI/ASHRAE Standard 62.1-2019. If ventilation rates do not meet applicable requirements, then an explanation for why the current system is unable to meet those rates shall be provided;

(e) for a school building, the verified exhaust rates for building classrooms, auditoriums, gymnasiums, nurses' offices, restrooms, and other occupied areas and whether those rates meet the requirements set forth in the design intent; and

(f) documentation of system deficiencies and recommendations for additional maintenance, replacement, or upgrades to improve energy efficiency, safety, or performance.

(6) Upon completion of all work funded by a grant pursuant to this section, the board of education shall have prepared an HVAC verification

report. The HVAC verification report shall include all of the following information:

(a) the name and address of the school and small business building and person or who prepared and certified the report;

(b) a description of the assessment, maintenance, adjustment, repair, upgrade, and replacement activities and outcomes;

(c) a verification that the board of education has complied with all requirements of this section;

(d) a verification that either MERV 13 filters have been installed or a verification that the maximum MERV-rated filter that the HVAC system is able to effectively handle has been installed and the MERV-rating level;

(e) the verified ventilation rates for building classrooms, auditoriums, gymnasiums, nurses' offices, restrooms, offices, and other occupied areas and whether those rates meet the requirements set forth in ANSI/ASHRAE Standard 62.1-2019. If ventilation rates do not meet applicable guidance, then the report shall provide an explanation for why the current system is unable to meet those rates;

(f) the verified exhaust for building classrooms, auditoriums, gymnasiums, nurses' offices, restrooms, and other occupied areas and whether those rates meet the requirements set forth in the design intent;

(g) documentation of HVAC system deficiencies and recommendations for additional maintenance, replacement, or upgrades to improve energy efficiency, safety, or performance;

(h) documentation of the initial operating verifications, adjustments, and final operating verifications of the HVAC system, and documentation of any adjustments or repairs performed on the HVAC system;

(i) verification of the installation of carbon dioxide monitors, including the make and model of the monitors; and

(j) verification that all work has been performed by qualified personnel, including the provision of the contractor's name, TAB technician name and certification number, and verification that all construction work has been performed by a skilled and trained workforce.

(7) Other than the workforce qualification requirements, the technical and reporting requirements of the SSBVEEVR Program may be amended by the board as necessary, to reflect the latest COVID-19 or other applicable guidance, or otherwise to achieve the intent of the SSBVEEVR Program and to ensure consistency with the related requirements and codes.

(8) The board of education shall maintain a copy of the HVAC verification report and make it available to any member of the public or the board upon request.

e. As a condition for receiving a grant pursuant to section 2 of P.L.2021, c.200 (C.48:3-106.2), a board of education and small business shall comply with the requirements of this section for all air-handling units, rooftop units, and unitary and single zone equipment in its schools' or small business' HVAC system or systems. Any costs associated with complying with this subsection shall be automatically included in any grant amount awarded under the program.

(1) An HVAC system installed pursuant to this section shall meet the ANSI/ASHRAE Standard 62.1-2019, Ventilation for Acceptable Indoor Air Quality and shall have qualified testing personnel or qualified adjusting personnel perform the following:

(a) review control sequences to verify HVAC systems will maintain intended ventilation, temperature, and humidity conditions during school and small business operation. Previously unoccupied buildings shall perform the recommended practices of reopening a building as covered in the ASHRAE Building Readiness document –Restarting a Building;

(b) verify a daily flush is scheduled for two hours before and after scheduled occupancy or demonstrate calculation of flush times per ASHRAE Guidance for Reopening and Operating Schools or Commercial Buildings, as applicable, or otherwise applicable local or State guidance; and

(c) verify that HVAC system operational times, exhaust fans operation times, setpoints, and enabled features meet ASHRAE Guidance for Reopening and Operating Schools or Commercial Buildings, as applicable, or otherwise applicable local or State guidance.

(2) A requirement for filtration levels, ventilation rates, and ventilation schedules may be amended by the board based on the latest coronavirus 2019, or other applicable, guidance.

f. Concerning a school, to ensure proper ventilation is maintained throughout the school year, all school district classrooms shall be equipped with a carbon dioxide monitor that meets requirements determined by the board. If a classroom carbon dioxide concentration exceeds 1,100 parts per million more than once a week as observed by the teacher or the facilities staff, the classroom ventilation rates shall be adjusted by qualified testing personnel or qualified adjusting personnel to ensure peak carbon dioxide concentrations in the classroom remain below the maximum allowable carbon dioxide parts per million setpoint.

g. A certified energy auditor shall determine what, if any, additional adjustments or repairs would be necessary to meet the minimum ventilation and filtration requirements, pursuant to this section, determine whether any further cost-effective energy efficiency upgrades or replacements are

warranted or recommended, and provide an estimated cost for this work. If the cost of recommended repairs, upgrades, or replacements are greater than the contingency amount provided in the grant, then the certified energy auditor and the board of education or small business shall submit an application for additional funding pursuant to section 2 of P.L.2021, c.200 (C.48:3-106.2).

h. Upon completion of all work funded by a grant pursuant to P.L.2021, c.200 (C.48:3-106.1 et seq.), a board of education and small business shall prepare an HVAC verification report. The HVAC verification report shall include all of the following information:

(1) the name and address of a school facility or small business and person or contractor preparing and certifying the report;

(2) a description of the assessment, maintenance, adjustment, repair, upgrade, and replacement activities and outcomes;

(3) verification that the board of education and small business has complied with all requirements of P.L.2021, c.200 (C.48:3-106.1 et seq.);

(4) verification that the school facility and small business meet ANSI/ASHRAE Standard 62.1-2019, Ventilation for Acceptable Indoor Air Quality;

(5) documentation of HVAC system deficiencies and recommendations for additional deferred general maintenance to bring up to date, replacement, or upgrades to improve energy efficiency, safety, or performance;

(6) verification of the installation of carbon dioxide monitors, pursuant to subsection e. of this section, including the make and model of the monitors;

(7) verification that all work has been performed by a certified energy auditor, including the provision of the contractor's name and license; and

(8) verification that the equipment installed exceeds current energy efficiency requirements by code and the submission of manufacturer specification sheets and supporting documents of qualification.

i. The requirements of this section may be amended by the board as necessary to reflect available technology and to achieve the intent of P.L.2021, c.200 (C.48:3-106.1 et seq.).

j. A board of education and small business shall maintain a copy of the HVAC verification report made pursuant to subsection h. of this section and make it available to any member of the public or the board upon request.

C.48:3-106.5 Administration of School and Small Business Noncompliant Plumbing Fixture and Appliance Program.

5. a. The board shall establish and administer the School and Small Business Noncompliant Plumbing Fixture and Appliance Program to provide

grants to boards of education and small businesses to replace noncompliant plumbing fixtures and appliances that fail to meet water efficiency standards, and waste and potable water and the energy used to convey that water, with water-conserving plumbing fixtures and appliances.

b. A board of education and small business may apply for a grant pursuant to section 2 of P.L.2021, c.200 (C.48:3-106.2) by submitting an application to the board, in a form and manner determined by the board, showing the existence of noncompliant plumbing fixtures or appliances in the school or small business for which the grant funding will be used and a cost estimate that is verified by a contractor for the replacement of the noncompliant plumbing fixtures and appliances with water-conserving plumbing fixtures and water-conserving appliances, and the board of education and small business meet other requirements determined by the board to be appropriate to achieve the purposes of this section.

c. Upon completion of all work funded by a grant pursuant to P.L.2021, c.200 (C.48:3-106.1 et seq.), a board of education and small business shall prepare a plumbing verification report. The plumbing verification report shall include all of the following information:

(1) the name and address of a school facility or small business and person or contractor preparing and certifying the report;

(2) a description of the assessment, maintenance, adjustment, repair, upgrade, and replacement activities and outcomes;

(3) verification that the board of education and small business has complied with all requirements of P.L.2021, c.200 (C.48:3-106.1 et seq.);

(4) documentation of plumbing system deficiencies;

(5) verification that all work has been performed by a licensed professional, including the provision of the contractor's name and license; and

(6) verification that the equipment installed exceeds current energy efficiency requirements required by code and the submission of manufacturer specification sheets and supporting documents of qualification.

d. The board is authorized to provide technical assistance or award grants pursuant to the SSBNPFA Program to assist a board of education and small business in identifying noncompliant plumbing fixtures and noncompliant appliances eligible for replacement pursuant to this section.

C.48:3-106.6 Rules, regulations.

6. The Board of Public Utilities may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of P.L.2021, c.200

(C.48:3-106.1 et seq.). The board may adopt, by board order, any program fund details necessary to effectuate the purposes of P.L.2021, c.200 (C.48:3-106.1 et seq.), and is pre-authorized to spend any necessary funds without additional approvals, provided that any temporarily avoided spending approvals are sought and obtained as expeditiously as possible.

7. This act shall take effect immediately.

Approved August 24, 2021.

CHAPTER 201

AN ACT concerning the implementation of renewable energy and energy efficiency systems and water conservation, flood and hurricane resistance projects, energy storage, and microgrids, supplementing Title 34 of the Revised Statutes, and amending P.L.1960, c.183 and P.L.2011, c.187.

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

C.34:1B-374 Findings, declarations.

1. The Legislature finds and declares it to be the public policy of this State that:

a. Investing in water conservation, stormwater management, renewable energy, energy efficiency, and flood and hurricane mitigation improvements to real property is a critical component in conserving natural resources and mitigating the effects of floods and hurricanes;

b. The up-front costs of retrofitting properties with these improvements are often a barrier to investing in such improvements, and the additional cost of meeting and exceeding new code requirements in connection with new construction is a deterrent to the investments;

c. Recent studies have demonstrated that the existing financing options for these projects have not made them sufficiently available to property owners and developers;

d. Property assessed clean energy ("PACE") financing, in which repayment is made by way of a special assessment on the real property to which the improvement, including new construction upon previously unimproved real property, is made, is an innovative way for property owners to finance or refinance renewable energy, energy and water efficiency, and other eligible improvements which, in turn, saves a significant sum in utility

costs or insurance premiums, creates jobs, stimulates local economies, reduces greenhouse gas emissions, and improves the safety and quality of the building stock;

e. To date, PACE programs for commercial properties ("C-PACE") operate in more than 24 other states and the District of Columbia, and they have facilitated more than $2 billion in investment in over 2,100 C-PACE projects;

f. C-PACE financing will enable New Jersey municipalities to contribute toward their goals of community sustainability and reducing greenhouse gas emissions and energy consumption, and will provide a valuable service to the citizens of their communities; and

g. C-PACE financing serves a valid public purpose and enactment of P.L.2021, c.201 (C.34:1B-374 et al.) is expressly declared to be in the public interest.

C.34:1B-375 Definitions.

2. As used in sections 1 through 9 of P.L.2021, c.201 (C.34:1B-374 through C.34:1B-382):

"Assignment agreement" means an agreement in which a participating municipality assigns a C-PACE assessment to a capital provider, its designee, successor or assign.

"Authority" means the New Jersey Economic Development Authority.

"Authorized municipality" means a municipality with a population that, as of the launch date, is in the top third of municipalities in the State in terms of population, according to the most recent American Community Survey published by the United States Census Bureau.

"Capital provider" means:

a. an accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal "Securities Act of 1933" (15 U.S.C. s.77a et seq.), as amended;

b. the trustee or custodian of a trust or custody arrangement which provides that each beneficial owner of interests shall be an accredited investor or qualified institutional buyer;

c. a public entity;

d. a special purpose securitization vehicle for the sale and transfer of securities, which is restricted to those persons described in subsection a. or b. of this definition; or

e. a commercial lending institution chartered by a state or the federal government, including, without limitation, a savings and loan association, a credit union, or a commercial bank.

"C-PACE" means commercial property assessed clean energy.

"C-PACE assessment" means a local improvement assessment, in accordance with chapter 56 of Title 40 of the Revised Statutes, imposed by a participating municipality on a property, with the consent of the owner of the property, and determined based upon either the existing use of a property or the contemplated use of unimproved property upon completion of new construction, as a means of securing financing provided pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382) to finance a C-PACE project at the property, payments in respect of which assessment are collected by the participating municipality and remitted to the entity that provided the financing or its designee.

"C-PACE assessment agreement" means an agreement between a participating municipality and a property owner in which the property owner agrees to the imposition of a C-PACE assessment on the property benefited by a C-PACE project within the municipality, and in which the participating municipality agrees to levy, bill, collect, remit, and, to the extent necessary, enforce the C-PACE assessment.

"C-PACE project" means:

a. the acquisition, construction, installation, modification, or, in the discretion of the authority and in accordance with guidelines adopted by the authority, entry into a capital lease of an energy efficiency improvement or renewable energy system including energy storage, microgrid, water conservation improvement, stormwater management system, electric vehicle charging infrastructure, flood resistant construction improvement, or hurricane resistant construction improvement, in each case affixed to a property, including new construction upon previously unimproved real property, within a participating municipality, provided that, on the basis of supplemental program guidelines to be published by the authority within 90 days following the launch date, a qualified professional attests that such new construction exceeds the minimum standards of the local and State building codes otherwise applicable to the property;

b. at the discretion of, and in accordance with guidelines adopted by, the authority, a microgrid or district heating and cooling system in which a property owner within the municipality participates for the duration of the C-PACE assessment; or

c. at the discretion of, and in accordance with guidelines adopted by, the authority, a power purchase agreement with respect to a renewable energy system affixed to a property.

"Direct financing" means financing for a C-PACE project pursuant to a financing agreement entered into between a capital provider and a property owner.

"Electric vehicle charging infrastructure" means equipment designed to deliver electric energy to a battery electric vehicle or a plug-in hybrid vehicle.

"Energy efficiency improvement" means an improvement to reduce energy consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy, including, but not limited to: air sealing; installation of insulation; installation of energy-efficient electrical, heating, cooling, or ventilation systems; building modifications to increase the use of daylight; energy efficient windows, doors, and glass; installation of energy or water controls or energy recovery systems; and installation of efficient lighting equipment.

"Finance" or "financing" means the investing of capital in accordance with section 9 of P.L.2021, c.201 (C.34:1B-382), including, on the basis of supplemental program guidelines to be published by the authority within 90 days following the launch date, the refinancing of an investment in an existing C-PACE project.

"Flood resistant construction improvement" means an improvement that mitigates the likelihood of flood damage, including, but not limited to, the installation of break-away walls and building elevation alterations.

"Garden State C-PACE program" means the program established by the authority pursuant to sections 4 and 5 of P.L.2021, c.201 (C.34:1B-377 and C.34:1B-378).

"Garden State program agreement" means an agreement between the authority and a participating municipality defining:

a. the obligations of a municipality to participate in the Garden State C-PACE program, including the requirement that the participating municipality levy, bill, collect, remit, and enforce a C-PACE assessment; and

b. the obligations, if any, that the authority may undertake (1) with respect to the remittance of C-PACE assessments to capital providers if the remittance is authorized by regulations adopted by the Local Finance Board pursuant to section 38 of P.L.2000, c.126 (C.52:27D-20.1) and requested by the participating municipality, and (2) to review and approve the participation of individual capital providers or financings in the Garden State C-PACE program. Neither the execution by the authority of a Garden State program agreement with a municipality nor its exercise of its rights or performance of its duties thereunder shall be considered "authority financial assistance" as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1).

"Hurricane resistant construction improvement" means an improvement that enables a component of a structure to be in compliance with the standards for a "wind-borne debris region" adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a successor standard under that code.

"Launch date" means the date upon which the authority has taken all of the actions specified in subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378), other than any actions that are expressly required by P.L.2021, c.201 (C.34:1B-374 et al.) to be taken within 90 days following the launch date.

"Local C-PACE program" means a program established by an authorized municipality or a county pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379).

"Local C-PACE program ordinance" means an ordinance adopted by an authorized municipality or a county, and approved by the authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380), to establish a program within its jurisdiction pursuant to subsection b. of section 5 and subsection a. of section 6 of P.L.2021, c.201 (C.34:1B-378 and C.34:1B-379).

"Microgrid" means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the electric distribution system and that connects and disconnects from the electric distribution system to enable it to operate when both connected to, or independent of, the electric distribution system.

"Notice of assessment" means the document filed with the county recording officer in the county in which a property is located, which notifies prospective holders of an interest in the property that a C-PACE assessment lien has been placed on the property.

"Opt-in ordinance" means an ordinance adopted by a municipality by which it authorizes its participation in the Garden State C-PACE program and authorizes the municipality to enter into a Garden State program agreement with the authority.

"Participating municipality" means:

a. a municipality that adopts an opt-in ordinance and executes a Garden State program agreement; or

b. an authorized municipality that adopts an opt-in ordinance, executes a Garden State program agreement, and adopts a local C-PACE program ordinance and local C-PACE program guidelines approved by the authority.

"Private entity" means a corporation, limited liability company, partnership, trust, or any other form of private organization, including but not limited to a "related competitive business segment of a public utility holding company," or a "related competitive business segment of an electric public

utility or gas public utility," as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), so long as the organization is not subject to the jurisdiction of the Board of Public Utilities.

"Program guidelines" means:

a. any program-related rules or documents, or both, prepared and published by the authority that apply to the Garden State C-PACE program; or

b. any program-related rules or documents, or both, prepared and published by an authorized municipality or a county, and approved by the authority, that apply to local C-PACE programs pursuant to paragraph (3) of subsection b. of section 6 of P.L.2021, c.201 (C.34:1B-379).

"Project costs" means costs associated with a C-PACE project and shall include: direct costs, including but not limited to, equipment, materials, and labor related to the purchasing, constructing, installing, modifying, or acquiring a C-PACE project; indirect costs, including, but not limited to, expenses and fees of engineers, architects, and other professionals, inspection fees and permits, warranties and pre-paid maintenance contracts; program fees; and financing costs of a capital provider, including, but not limited to, origination fees, prepaid interest and payment reserves, closing costs, counsel fees, trustee or custodian fees, recording fees, and other financing charges, except that the authority may implement an alternative definition of "project costs" in its program guidelines in connection with the financing of new construction.

"Property" means industrial, agricultural, or commercial property; residential property containing five or more dwelling units; common areas of condominiums and other planned real estate developments as defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and property owned by a tax-exempt or nonprofit entity, including, but not limited to, schools, hospitals, institutions of higher education, or religious institutions, within a participating municipality upon which a C-PACE assessment is imposed at the request of a property owner in connection with a C-PACE project.

"Property owner" means an owner of a property within a participating municipality who consents to a C-PACE assessment being imposed on the property.

"Renewable energy system" means an improvement by which electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources: hydrogen, solar energy, geothermal energy, biomass, or wind energy, together with the other fuels and energy sources that the authority, after consultation with the Board of Public Utilities, may determine pursuant to program guidelines

prepared and published pursuant to subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378).

"Solar renewable energy certificate" means the same as defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Stormwater management system" means the same as defined in section 3 of P.L.2019, c.42 (C.40A:26B-3).

"Transition renewable energy certificate" means a certificate issued by the Board of Public Utilities or its designee, under the solar energy transition incentive program, which is designed to transition between the solar renewable energy certificate program and a solar successor incentive program to be developed by the Board of Public Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

"Uniform assessment documents" means a uniform C-PACE assessment agreement, assignment agreement, and notice of assessment, a model lender consent to a C-PACE assessment pursuant to section 5 of P.L.2021, c.201 (C.34:1B-378), and any other uniform or model documents prepared by the authority and used in the Garden State C-PACE program and local C-PACE programs, except that the authority shall not mandate a uniform financing agreement, which shall be supplied by the capital provider for direct financing.

"Water conservation improvement" means an improvement that reduces water consumption, increases the efficiency of water use, or reduces water loss.

C.34:1B-376 Report to Governor, Legislature.

3. a. (1) No later than 18 months after the launch date and annually thereafter, the authority shall prepare and submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report describing the implementation and operation of the Garden State C-PACE program, including information relating to any administrative costs, the number of C-PACE projects, the location of C-PACE projects, and the amount of financing issued for C-PACE projects under the Garden State C-PACE program.

(2) No later than 18 months after an authorized municipality or a county establishes a local C-PACE program pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379), and annually thereafter, the municipality or county shall prepare and submit to the Governor, the authority, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report describing the implementation and operation of its local C-PACE program, including information relating to any administrative costs, the number of C-PACE projects, the location of C-PACE projects, and the amount of financing issued for C-PACE projects under its local C-PACE program.

b. (1) No later than five years after the launch date, the authority shall prepare and submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report that reviews and assesses implementation of the Garden State C-PACE program. The report shall evaluate the Garden State C-PACE program, including a review of foreclosure rates and any other factors the authority deems appropriate. The report may also identify and recommend legislative changes to P.L.2021, c.201 (C.34:1B-374 et al.). The report shall include an assessment of whether the costs incurred in implementing the Garden State C-PACE Program are an effective means of facilitating the financing of projects.

(2) No later than five years after an authorized municipality or a county establishes a local C-PACE program pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379), the municipality or county shall prepare and submit to the Governor, the authority and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report that reviews and assesses implementation of the local C-PACE program. The report shall evaluate its local C-PACE program, including a review of foreclosure rates and any other factors the authority deems appropriate. The report may also identify and recommend legislative changes to P.L.2021, c.201 (C.34:1B-374 et al.).

c. The authority shall post all reports prepared by the authority pursuant to this section on its Internet website. Each authorized municipality and each county that has established a local C-PACE program shall post all reports prepared by it pursuant to this section on its Internet website.

C.34:1B-377 Garden State C-PACE program.

4. a. The authority shall establish a Garden State C-PACE program to facilitate the financing of C-PACE projects in municipalities that adopt an opt-in ordinance. The Garden State C-PACE program shall consist of the development of uniform assessment documents and program guidelines for the financing of C-PACE projects to be undertaken by property owners as local improvements and the provision by ordinance, subject to the approval of the authority, for a C-PACE assessment to be imposed on properties within the municipality, if the owner of a property requests the C-PACE assessment in order to undertake and finance a C-PACE project. C-PACE projects on an individual property subject to the same C-PACE assessment agreement collectively shall constitute a separate local improvement and shall be assessed separately to the property owner benefitted thereby.

b. The authority may contract with, and set the compensation of, one or more third-party administrators, whether private, public or quasi-public, or for-profit or not-for-profit, to assist the authority in its implementation or

administration, or a combination thereof, of the Garden State C-PACE program pursuant to a competitive bidding process. The authority may delegate any duties under the program to one or more third-party administrators, provided that the authority shall not delegate its responsibility for general oversight of the Garden State C-PACE program.

c. The authority may enter into a memorandum of agreement with one or more State government agencies or instrumentalities whereby any of the powers the authority may exercise or responsibilities it must fulfill pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) may be exercised or fulfilled, as the case may be, by such agency or instrumentality, and any fund that may be used for administrative expenses by the authority may be used by such agency or instrumentality in exercising such powers or fulfilling such responsibilities.

d. The authority may establish a loss reserve, issue guarantees, or both, to mitigate the repayment risk assumed by capital providers providing direct financing, in order to improve the availability and financial terms of such financing of C-PACE projects for property owners.

C.34:1B-378 Information published on Internet website.

5. a. Within 270 days after the effective date of P.L.2021, c.201 (C.34:1B-374 et al.), the authority shall establish the Garden State C-PACE program by publishing on its Internet website:

(1) uniform assessment documents;

(2) a model opt-in ordinance;

(3) Garden State C-PACE program guidelines adopted pursuant to subsection c. of this section; and

(4) a description of the process by which a county or an authorized municipality applies to the authority for approval of a local C-PACE program ordinance.

The Garden State C-PACE program shall not be operational and available for the participation of capital providers, municipalities and property owners until the authority has taken all of the actions required by this subsection.

b. The model opt-in ordinance, as well as any local C-PACE program ordinance, shall prescribe a subset of the criteria for qualifying a C-PACE project for a C-PACE assessment, including the following:

(1) financing recipients shall be the legal or beneficial owners of the property or duly authorized by the legal or beneficial owners of the property, there shall be no defaults on any mortgage loans on the subject property, all tax payments, charges, and assessments with respect to the property shall be current, the legal or beneficial owners of the property shall not be subject to any bankruptcy proceeding, and the subject property shall not be the subject of a bankruptcy proceeding;

(2) the principal amount of the C-PACE assessment, when combined with mortgage and other lien obligations on a property shall not exceed 90 percent of the appraised value of the property after including the value created by the C-PACE project;

(3) the maximum duration of a C-PACE assessment, which shall be determined pursuant to the provisions of paragraph (6) of subsection c. of this section, shall not exceed the weighted average useful life of the improvements in the C-PACE project or 30 years, whichever is less;

(4) the amount of the C-PACE assessment for a property shall be a specific amount, and the terms of repayment of direct financing shall be solely determined and negotiated between a property owner and capital provider subject to the maximum duration of an assessment in paragraph (3) of this subsection; and

(5) a property owner seeking a C-PACE assessment shall receive written consent of the existing mortgage holders on the property prior to the closing of the financing.

c. Pursuant to the purposes and objectives outlined in P.L.2021, c.201 (C.34:1B-374 et al.), and with respect to the responsibilities of overseeing and implementing the Garden State C-PACE program, the authority shall develop, in consultation with the Division of Local Government Services in the Department of Community Affairs, program guidelines governing the terms and conditions under which financing may be made available under the Garden State C-PACE program. Any amendments to the Garden State C-PACE program guidelines shall require the approval of the authority's board of directors.

Pursuant to the purposes and objectives outlined in P.L.2021, c.201 (C.34:1B-374 et al.), and with respect to the responsibilities of overseeing and implementing a local C-PACE program, a county or authorized municipality shall develop program guidelines governing the terms and conditions under which financing may be made available under the local C-PACE program. The program guidelines, and any amendments thereto, for a local C-PACE program shall be consistent with the Garden State C-PACE program guidelines and the requirements set forth in P.L.2021, c.201 (C.34:1B-374 et al.) for C-PACE projects and financing, and shall be subject to approval by the authority pursuant to subsection a. of section 7 of P.L.2021, c.201 (C.34:1B-380).

The Garden State C-PACE program guidelines and any local C-PACE program guidelines shall include, but not be limited, to:

(1) a uniform project application, uniform application requirements, including uniform application documents; and the procedures for a property

owner to obtain approval of a C-PACE project and a capital provider to finance a C-PACE project;

(2) minimum standards for a C-PACE project to qualify for C-PACE financing;

(3) eligibility criteria for a property owner and property to qualify for a C-PACE assessment;

(4) the underwriting criteria to be applied in determining the eligibility of properties and their owners to participate in the Garden State C-PACE program and local C-PACE programs and the maximum permitted amount of a financing based on a property's value and other characteristics;

(5) a requirement that all existing mortgage lien holders on a property be given notice prior to a C-PACE assessment and lien being filed in connection with that property, and that all property owners receive consent of the existing mortgage holders on the property;

(6) a requirement that the term of a financing be no longer than the forecast life of the improvements, which shall be calculated on a blended average basis taking account of the relative values of the fixed assets included in the C-PACE project, except that the authority may establish alternative criteria for establishing the maximum term of a financing for a C-PACE project that consists of new construction;

(7) within 90 days following the launch date with respect to the Garden State C-PACE program guidelines only, supplemental program guidelines for refinancing projects completed prior to the submission of a project application for a C-PACE assessment and for the use of the Garden State C-PACE program in connection with the financing of new construction upon previously unimproved real property.

d. Subject to the written consent of existing mortgage holders, the form of which shall be determined by the authority in its uniform assessment documents adopted pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378), the C-PACE assessment shall be a single, continuous first lien on the property on and after the date of recordation of the C-PACE assessment agreement. A property with delinquent taxes, charges, or assessments shall not be eligible for a C-PACE assessment. Upon recordation of the C-PACE assessment agreement in the land records of the county in which the property is located, the lien thereof shall be perfected for all purposes in accordance with law, and the lien shall be a continuous first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances thereon, except subsequent taxes, charges, or assessments, without any additional notice, recording, filing, continuation filing, or action, until payment in full of the C-PACE assessment,

notwithstanding any mistake in the name or names of any owner or owners, or any omission to name any owner or owners who are unknown, and notwithstanding any lack of form therein, or in any other proceeding which does not impair the substantial rights of the owner or owners or other person or persons having a lien upon or interest in any the real estate. Any confirmation of the amount of the C-PACE assessment by the applicable municipality's governing body or by a court shall be considered as determining the amount of the existing lien and not as establishing the lien. All C-PACE assessments shall be presumed to have been regularly assessed and confirmed and every assessment or proceeding preliminary thereto shall be presumed to have been regularly made or conducted until the contrary be shown.

e. A C-PACE assessment shall be treated as a municipal lien rather than a contractual lien for all purposes of law.

f. Funds to finance a C-PACE project may be disbursed to, or for the benefit of, the property owner at execution of the C-PACE assessment agreement, or may be disbursed in installments over time. The funds shall not constitute public funds, and shall not be subject to the laws governing public funds, including, but not limited to, laws regarding the receipt, expenditure, deposit, investment, or appropriation of the same. Payments of the C-PACE assessment shall commence as set forth in the C-PACE assessment agreement. To the extent that upon completion of the C-PACE project, funds remain that have not been disbursed to the property owner, those funds on hand shall be used to reduce the amount of the C-PACE assessment in accordance with the C-PACE assessment agreement.

g. Except as provided in this subsection, if any payment of a C-PACE assessment is not made when that payment shall have become due, or later, consistent with any grace period provided or extended by a participating municipality for the payment of property tax bills as may be permitted or required by law, interest thereon shall be imposed at the same rate as may be imposed upon unpaid property taxes in the participating municipality. Notwithstanding any other provision of law, such statutory interest shall be in addition to any accrued interest and any amount fixed as a penalty for delinquency pursuant to the financing agreement between the property owner and the capital provider. All such amounts shall be collected and enforced in the same manner as unpaid property taxes, including by accelerated tax sale if the participating municipality enforces collection of its unpaid property taxes through accelerated tax sales. The proceeds of the sale shall also pay the outstanding past unpaid amounts of the C-PACE assessment. However, the remaining balance not delinquent on a C-PACE assessment shall not be subject to acceleration or extinguishment in the event of a default in payment. Any

statutory interest collected by the municipality on a delinquent C-PACE assessment pursuant to this subsection shall be retained by the municipality. Any accrued interest, or any amount fixed as a penalty for delinquency, pursuant to the financing agreement between the property owner and the capital provider shall be remitted to the capital provider. If the property owner is delinquent on a C-PACE assessment as well as delinquent on taxes, charges, or other assessments, any payment shall be applied towards any and all such other delinquencies before being applied to any delinquent C-PACE assessment. Notwithstanding any other provision of law, in the event that any lien on the property shall be exposed to tax sale, pursuant to the "tax sale law," R.S.54:5-1 et seq., and is struck off and sold to the participating municipality, the C-PACE assessment shall survive any subsequent action to foreclose the right of redemption and continue as a first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances, except subsequent taxes, charges, or other assessments, and provided that, notwithstanding the obligations of a participating municipality pursuant to section 1 of P.L.1942, c.54 (C.54:5-53.1), while the participating municipality holds the lien or owns the property, the participating municipality shall not be responsible for or required to make any payment from its treasury or any other source in furtherance of or to satisfy the C-PACE assessment. A municipality shall not bear any other responsibility in furtherance or satisfaction of a C-PACE assessment, except that a municipality may be compelled to enforce a lien through an action to foreclose. In the event of a taking of the property by eminent domain or condemnation, the C-PACE assessment may be accelerated or extinguished, at the election of the capital provider, provided the capital provider is compensated in accordance with the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), by the governmental entity utilizing eminent domain or condemnation for the balance due on the unpaid C-PACE assessment and any interest, penalties, or other charges related thereto.

h. (1) C-PACE assessments shall be assigned directly by the participating municipality, and any assignee thereof, as security for financing from a capital provider to finance C-PACE projects. Notwithstanding any law to the contrary, the assignment shall be an absolute assignment of all of the participating municipality's right, title, and interest in and to the C-PACE assessment, except for its obligations to bill, collect, remit, and enforce C-PACE assessments as set forth in the assignment agreement. The proceeds of a C-PACE assessment shall be considered "special revenues" owned by the capital provider pursuant to chapter 9 of the federal bankruptcy code.

(2) C-PACE assessments assigned as provided hereunder shall not be included in the general funds of the participating municipality, or be subject to any laws regarding the receipt, deposit, investment, or appropriation of public funds, and shall retain such status notwithstanding enforcement of the assessment by the participating municipality or assignee as provided herein. In the case of a participating municipality that is otherwise subject to tax or revenue sharing pursuant to law and which assigns C-PACE assessments as set forth in this section, the C-PACE assessments shall not be considered part of the tax or revenue sharing formula or calculation of municipal revenues for the purpose of determining whether that participating municipality is obligated to make payment to, or receive a credit from, any tax sharing or revenue sharing pool. However, the redemption of any delinquent and unpaid C-PACE assessments, including any interest, penalties, or other charges related thereto, shall be paid no later than on the first available tax bill after the property has been sold after an action to foreclose the right of redemption.

i. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall not apply to the preparation, publication, or implementation of the uniform assessment documents or the program guidelines of the Garden State C-PACE program or a local C-PACE program.

C.34:1B-379 Local C-PACE program.

6. a. An authorized municipality that has adopted an opt-in ordinance may also establish a local C-PACE program to facilitate the financing of C-PACE projects in that authorized municipality. A county may also establish a local C-PACE program pursuant to a local C-PACE program ordinance to facilitate the financing of C-PACE projects in participating municipalities located in that county that have adopted an opt-in ordinance. A local C-PACE program ordinance adopted by a county shall establish a program for the benefit of municipalities located within the county, but participating municipalities shall remain responsible for the process of levying, billing, collecting, remitting, and enforcing the C-PACE assessment. In a county or authorized municipality that has established a local C-PACE program pursuant to a local C-PACE program ordinance, any C-PACE projects in that authorized municipality or, in the case of a county, in any participating municipality located in that county that has adopted an opt-in ordinance, may be financed pursuant to the Garden State C-PACE program or the local C-PACE program. In a municipality that has not established, or is located in a county that has not established, a local C-PACE program pursuant to a local

C-PACE program ordinance, any C-PACE projects in that municipality may be financed pursuant to the Garden State C-PACE program only.

b. Notwithstanding the provisions of P.L.2011, c.187 (C.40:56-1.4 et al.), or any other law, to the contrary, a county or authorized municipality seeking to establish and implement a local C-PACE program shall adopt a local C-PACE program ordinance consistent with this section and section 5 of P.L.2021, c.201 (C.34:1B-378). An authorized municipality may establish a local C-PACE program through the adoption of a local C-PACE program ordinance if the municipality has entered a Garden State program agreement with the authority, and obtained approval of the ordinance from the authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380). A county may establish a local C-PACE program through the adoption of a local C-PACE program ordinance if the county has obtained approval of the ordinance from the authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380).

In addition to prescribing criteria for qualifying a C-PACE project for a C-PACE assessment pursuant to subsection b. of section 5 of P.L.2021, c.201 (C.34:1B-378), a local C-PACE program ordinance shall establish the following:

(1) A participating municipality or a county may enter into an agreement with a county improvement authority or it may, pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) enter into contracts with one or more private parties, to assist the participating municipality or county in its implementation and administration, or a combination thereof, of the local C-PACE program. The municipality or county may delegate to one or more private parties or a county improvement authority such matters as the participating municipality determines, except that it may not delegate its reporting obligations pursuant to section 3 of P.L.2021, c.201 (C.34:1B-376) or its obligation to ensure that its local C-PACE program complies in all respects with P.L.2021, c.201 (C.34:1B-374 et al.) and its local C-PACE program guidelines.

(2) An authorized municipality or a county may, in addition to direct financing, offer financing of C-PACE projects through the issuance of bonds pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382).

(3) A local C-PACE program shall not be operational and available for the participation of capital providers and property owners until the authorized municipality or county, as applicable, by resolution of the governing body, authorizes local C-PACE program guidelines pursuant to subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378). The program guidelines for any local C-PACE program shall be consistent with the Garden State C-PACE program guidelines and the requirements set forth in P.L.2021, c.201 (C.34:1B-374 et al.) for C-PACE projects and financing, and shall be subject to approval by the

authority pursuant to subsection a. of section 7 of P.L.2021, c.201 (C.34:1B-380). In addition, such program guidelines may include supplemental provisions, provided that they are not inconsistent with the Garden State C-PACE program guidelines and the requirements set forth in P.L.2021, c.201 (C.34:1B-374 et al.).

C.34:1B-380 Application to establish local C-PACE program.

7. a. An authorized municipality or a county seeking to establish a local C-PACE program pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379) shall submit an application to the authority for approval. The application to the authority shall consist of the following:

(1) a proposed local C-PACE program ordinance consistent with subsection b. of section 5 of P.L.2021, c.201 (C.34:1B-378);

(2) acknowledgement that the authorized municipality or, in the case of a local C-PACE program established by a county, any participating municipality located in that county, shall use the uniform assessment documents prepared by the authority; and

(3) the authorized municipality's or county's proposed program guidelines.

b. (1) The authority's review of a county's or authorized municipality's application shall be limited to confirming that it contains the items required by section 5 of P.L.2021, c.201 (C.34:1B-378) and is otherwise in compliance with the provisions of P.L.2021, c.201 (C.34:1B-374 et al.). Within 60 days after receipt of the application, the authority shall either approve or reject the application. If the authority does not act within 60 days after receipt, the application shall be deemed approved.

(2) If the authority approves the application, or the application is deemed approved in accordance with paragraph (1) of this subsection, the county or authorized municipality may adopt the proposed ordinance establishing a local C-PACE program.

(3) If the authority disapproves the application, it shall provide a detailed explanation to the county or authorized municipality as to the reasons for the disapproval and the changes necessary to bring the proposed local C-PACE program ordinance, local C-PACE program guidelines, and other elements of the proposed local C-PACE program into compliance with the requirements of P.L.2021, c.201 (C.34:1B-374 et al.). The county or authorized municipality shall not adopt the proposed local C-PACE program ordinance if the authority disapproves the application, but the county or authorized municipality may submit a revised or new application.

c. The authority may monitor and oversee a county's or authorized municipality's local C-PACE program to the extent it deems necessary to

ensure the continuing compliance of the local C-PACE program with the requirements of P.L.2021, c.201 (C.34:1B-374 et al.). The authority's discretionary monitoring and oversight role pursuant to this subsection shall not include the review and approval of C-PACE project applications that are submitted to a local C-PACE program. The authority shall review and approve C-PACE project applications that are submitted to the Garden State C-PACE program, but only an authorized municipality or county that has established a local C-PACE program pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) may review and approve C-PACE project applications that are submitted to a local C-PACE program.

A participating municipality or a county with a local C-PACE program shall incorporate into its local C-PACE program guidelines any revision or amendment made by the authority to the Garden State C-PACE program guidelines immediately upon the publication of the revision or amendment on the authority's website, unless the authority expressly provides otherwise, based upon a determination that the revision or amendment does not apply to local C-PACE programs. Any such revisions or amendments made by the authority to the Garden State C-PACE program guidelines or incorporated into local C-PACE program guidelines shall not apply retroactively to C-PACE projects that were previously approved pursuant to the Garden State C-PACE program or local C-PACE programs.

In the event that an authorized municipality or county desires to revise or amend its program guidelines in any other manner, such proposed revisions or amendments shall first be submitted to the authority for its review and approval before the revisions or amendments become effective.

C.34:1B-381 Fee charged to county, municipality.

8. a. The authority may charge a county or authorized municipality a fee to review a proposed local C-PACE program ordinance or local C-PACE program guidelines. The fee shall reflect the reasonable and actual cost of the review, provided that the fee shall be a one-time charge not to exceed $5,000.

b. The authority may charge the property owner a fee for the review of an application for a C-PACE project in the Garden State C-PACE program and for its fulfillment of such obligations, if any, that the authority may undertake to serve as an intermediary in the remittance of C-PACE assessments to capital providers if requested by the participating municipality. The fee shall reflect the reasonable and actual costs of the review or fulfillment of any obligations that the authority may undertake.

c. A participating municipality may charge the property owner an annual fee for the billing, collecting, and remitting of the C-PACE assessment. The fee shall reflect the reasonable and actual cost of the billing, collecting, and remitting of the annual amounts due for the C-PACE assessment.

C.34:1B-382 Financing, assessment on property.

9. a. Financing for the implementation of C-PACE projects, including the refinancing of an investment in an existing improvement that qualifies as a C-PACE project, provided the existing improvement was completed no more than three years prior to the submission of an application to the Garden State C-PACE program or local C-PACE program for the financing, shall be made available to property owners in exchange for a C-PACE assessment on the property. The C-PACE assessment shall be used to repay the financing.

b. The governing body of a county or authorized municipality may apply to a county improvement authority that issues bonds pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or, in the case of an authorized municipality, may issue bonds on its own to finance project costs for C-PACE projects pursuant to a local C-PACE program or the Garden State C-PACE program.

(1) Notwithstanding any other law to the contrary, bonds issued by a participating municipality shall be authorized and issued by ordinance of the municipality, may be issued in one or more series on such additional terms, and may be sold at public or private sale, all as set forth in the ordinance.

(2) Bonds issued by a county improvement authority shall be authorized and issued in the manner set forth in the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.).

(3) Bonds issued by a participating municipality or county improvement authority shall be non-recourse obligations of the issuer and shall not be considered to be direct and general obligations of the issuer, or the State of New Jersey or any political subdivision thereof. Any bonds issued or authorized by a municipality pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S. 40A:2-1 et seq.

(4) Bonds issued by a municipality or county improvement authority pursuant to this subsection may be backed by one or more C-PACE assessment contracts.

c. The authority shall allow capital providers to directly finance project costs for C-PACE projects, or for such costs to be financed through bond

issuance. Any direct financing provided by a capital provider pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not be guaranteed or secured by the full faith and credit of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered to be direct and general obligations of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered gross debt of any municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq., and shall not be considered "financial assistance" pursuant to section 1 of P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may provide a guaranty as provided for in subsection d. of section 4 of P.L.2021, c.201 (C.34:1B-377). The Garden State C-PACE program and any local C-PACE program shall permit all capital providers that meet the eligibility requirements established in their program guidelines to provide financing through the program.

d. An authorized municipality or county that has established a local C-PACE program shall allow capital providers to directly finance project costs for C-PACE projects under the program. The repayment of any financing provided by a capital provider shall not be guaranteed or secured by the full faith and credit of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered to be direct and general obligations of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered gross debt of any municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq., and shall not be considered "financial assistance" pursuant to section 1 of P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may provide a guaranty as provided for in subsection d. of section 4 of P.L.2021, c.201 (C.34:1B-377).

e. A property owner who installs a renewable energy system under the Garden State C-PACE program or a local C-PACE program may also assign or transfer any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy certificates or credits that accrue to the property owner from the operation of the system to the authority, the municipality, the county improvement authority, other public entity, or the private entity, or capital provider as applicable, which has financed the C-PACE project. If any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy certificates or credits are assigned or transferred to a municipality, county, county improvement authority, other public entity, or private entity, the municipality, county, county improvement authority, other public entity, or private entity, or capital

provider is authorized to sell, grant, assign, convey, or otherwise dispose of its interest in the certificates or credits to repay the financing.

f. Other than as identified in this section, no public entity, including the State of New Jersey or any political subdivision thereof, may issue bonds to finance any C-PACE program, except to the extent the authority may issue bonds pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

10. Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended to read as follows:

C.40:56-1.4 Clean energy special assessment, financing by municipality.

1. a. Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the governing body of a municipality may undertake the financing of the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as a local improvement and may provide by ordinance for a "clean energy special assessment" to be imposed on a property within the municipality, if the owner of the property requests the assessment in order to install such systems or improvements. Each improvement on an individual property shall constitute a separate local improvement and shall be assessed separately to the property owner benefitted thereby. The clean energy special assessment shall be payable in quarterly installments. The terms of the clean energy special assessment shall be in accordance with the terms of the financing provided by the municipality pursuant to section 2 of P.L.2011, c.187 (C.40:56-13.1).

b. Notwithstanding the provisions of subsection a. of this section to the contrary, the Director of Local Government Services in the Department of Community Affairs shall not accept, and a municipality shall not submit, an application to undertake the financing of the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as a local improvement pursuant to the provisions of P.L.2011, c.187 (C.40:56-1.4 et al.) after the date the Economic Development Authority has published on its Internet website all the items pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378). The Director of Local Government Services in the Department of Community Affairs shall continue to process any application submitted prior to that date, and a municipality shall continue its undertaking approved prior to that date and any undertaking for which an application was pending on that date that is approved on or after that date.

c. All actions taken by the Director of Local Government Services in the Department of Community Affairs or any municipality pursuant to the

provisions of this section shall be unaffected by the enactment of P.L.2021, c.201 (C.34:1B-374 et al.).

11. Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to read as follows:

C.40:56-13.1 Clean energy special assessment, financing.

2. a. (1) Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, a municipality may adopt an ordinance to establish a program to finance the purchase and installation of renewable energy systems and energy efficiency improvements by property owners and to authorize the issuance at public or private sale of non-recourse bonds as further provided herein. The governing body may apply to a county improvement authority that issues bonds pursuant to paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2). Funds for the purchase and installation of renewable energy systems and energy efficiency improvements shall be loaned to property owners in exchange for a clean energy special assessment on the property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4), to be paid quarterly. In the case of financing provided by bonds issued by a county improvement authority, the clean energy special assessment shall be used to repay the bonds. The bonds issued by a county improvement authority pursuant to this section shall be issued as non-recourse obligations of the authority and shall not be considered to be direct and general obligations of the authority. In the case of financing provided by the municipality through the issuance of municipal bonds, the clean energy special assessment shall be used to repay the bonds. The bonds issued by a municipality pursuant to this section shall be issued as non-recourse obligations of the municipality and shall not be considered to be direct and general obligations of the municipality. Any bonds issued or authorized by a municipality pursuant to this section shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq. A property owner who purchases and installs a renewable energy system under the program may also assign any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy credits that accrue to the property owner from the operation of the system to the municipality or the county improvement authority to repay the loan for the system. The Director of Local Government Services in the Department of Community Affairs shall coordinate efforts

with the Board of Public Utilities to ensure that the amount of financing made available by local programs authorized pursuant to this act is in accordance with limits set from time to time by the Board of Public Utilities in order to ensure that local programs further the goals of the Office of Clean Energy in the Board of Public Utilities.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the Director of Local Government Services in the Department of Community Affairs shall not accept and a municipality shall not submit an application for approval of an ordinance to establish a program to finance the purchase and installation of renewable energy systems and energy efficiency improvements by property owners pursuant to the provisions of P.L.2011, c.187 (C.40:56-1.4 et al.) after the date the Economic Development Authority has published on its Internet website all of the items pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378). The Director of Local Government Services in the Department of Community Affairs shall continue to process any application submitted prior to that date, and a municipality shall adopt any ordinance approved prior to that date and any ordinance for which an application was pending on that date that is approved on or after that date.

(3) All actions taken by the Director of Local Government Services in the Department of Community Affairs or any municipality pursuant to the provisions of this section shall be unaffected by the enactment of P.L.2021, c.201 (C.34:1B-374 et al.).

b. As used in this section:

"Solar renewable energy certificate" shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

"Transition renewable energy certificate" shall have the same meaning as set forth in section 2 of P.L.2021, c.201 (C.34:1B-375).

12. Section 3 of P.L.2011, c.187 (C.40:56-13.2) is amended to read as follows:

C.40:56-13.2 Amounts of money to be expended for improvements established.

3. a. Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the governing body of a municipality may establish the amounts of money to be expended by the municipality for the improvements authorized in sections 1 and 2 of P.L.2011, c.187 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated may be raised by the issuance of clean energy special assessment bonds by the municipality. In making the appropriation, the governing body may designate the particular projects to be financed to which the moneys shall be applied.

b. Clean energy special assessments and bonds issued to finance them shall be issued and shall be generally subject to R.S.40:56-21 et seq., as the director shall determine to be applicable.

c. The director is authorized and empowered to take such action as deemed necessary and consistent with the intent of this act to implement its provisions.

d. Notwithstanding the provisions of this section to the contrary, the Director of Local Government Services in the Department of Community Affairs shall not accept, and the governing body of a municipality shall not submit an application pursuant to subsection a. of this section after the date the Economic Development Authority has published on its Internet website all of the items pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378). The Director of Local Government Services in the Department of Community Affairs or a municipality shall continue to process any application submitted prior to that date, and an application approved by a municipality prior to that date shall be implemented.

e. All actions taken by the Director of Local Government Services in the Department of Community Affairs or any municipality pursuant to the provisions of this section shall be unaffected by the enactment of P.L.2021, c.201 (C.34:1B-374 et al.).

13. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to read as follows:

C.40:37A-54 Purposes.

11. a. The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use

in counties in, along or through which a navigable river flows, (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the county or any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50 percent of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.), including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (i) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.), as amended and supplemented, (j) planning, initiating and carrying out

redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A county improvement authority shall also have as its purpose the pooling of loans for any local governmental units within the county or any beneficiary county that are refunding bonds in order to achieve more favorable interest rates and terms for those local governmental units. A county improvement authority shall also have as its purpose the administration, on behalf of an authorized municipality or county, of a local C-PACE program as defined in section 2 of P.L.2021, c.201 (C.34:1B-375) and to issue bonds to finance a C-PACE project for a local C-PACE program or the Garden State C-PACE program pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382).

b. In a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), a state of emergency, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), or both has been declared by the Governor in response to COVID-19 and during the next following fiscal year, a county improvement authority shall also have as its purpose the pooling of special emergency notes issued by the county or any beneficiary county, or by any local governmental unit within the county or any beneficiary county, pursuant to N.J.S.40A:4-55 for purposes of financing a special emergency appropriation authorized for the purpose set forth in subsections l. and m. of N.J.S.40A:4-53.

14. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to read as follows:

C.40:37A-55 Body politic and corporate; powers and duties.

12. Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have

perpetual succession and, for the effectuation of its purposes, have the following additional powers:

(a) To adopt and have a common seal and to alter the same at pleasure;

(b) To sue and be sued;

(c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;

(d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;

(e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority; provided that the authority may dispose of such property at any time to any governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;

(f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;

(h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;

(i) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such

period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(j) (1) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(2) To issue bonds, notes or other obligations to provide funding to a municipality that finances the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as provided in section 2 of P.L.2011, c.187 (C.40:56-13.1);

(3) To issue bonds, notes, or other obligations to finance a C-PACE project for a local C-PACE program pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382);

(k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue

commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpoenas or commissions;

(t) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(u) To pool loans for any local governmental units within the county or any beneficiary county that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units; and

(v) To act as and exercise the powers of a land bank entity pursuant to P.L.2019, c.159 (C.40A:12A-74 et al.) for any municipality situated within the county pursuant to a land banking agreement approved by an ordinance adopted by the municipal governing body.

15. This act shall take effect immediately, except that neither the Garden State C-PACE program nor any local C-PACE program established pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall be operable until the authority has published on its Internet website all of items required pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378).

Approved August 24, 2021.

CHAPTER 202

AN ACT allowing corporations and certain financial institutions to hold certain remote meetings and amending various parts of the statutory law.

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

1. N.J.S.14A:5-1 is amended to read as follows:

Place of shareholders' meetings.

14A:5-1. Place of shareholders' meetings.

(1) Meetings of shareholders of every corporation organized for any purpose under any general or special law of this State may, unless otherwise provided by law, be held at such place, within or without this State, as may be provided in the by-laws or as may be fixed by the board pursuant to authority granted by the by-laws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation. A meeting of shareholders may be held solely or in part by means of remote communication to the extent the board authorizes and adopts guidelines and procedures governing such a meeting.

(2) One or more shareholders may participate in a meeting of shareholders by means of remote communication to the extent the board authorizes that participation, including the authorization of a meeting of shareholders held solely by means of remote participation. Shareholder meetings conducted in part or solely by means of remote communication and any shareholder's remote participation in those meetings shall be subject to those guidelines and procedures as the board adopts, and shall be in conformity with subsection 14A:5-1(3).

(3) A shareholder participating in a meeting of shareholders by means of remote communication in reliance upon subsection 14A:5-1(1) shall be deemed present in person and shall be entitled to vote at the meeting regardless of whether that meeting is held at a designated place or solely by means of remote communication. In any shareholder meeting conducted in part or solely by means of remote communication in reliance upon subsection 14A:5-1(1), the corporation shall implement reasonable measures to:

(a) verify that each person participating remotely is a shareholder or a proxy of a shareholder;

(b) provide each shareholder participating remotely with a reasonable opportunity to participate in the meeting, including an opportunity to vote on matters submitted to the shareholders, and to read or hear the proceedings of the meeting substantially concurrently with those proceedings; and

(c) record and maintain a record of any shareholder votes or other actions taken by remote communication at the meeting.

2. Section 81 of P.L.1948, c.67 (C.17:9A-81) is amended to read as follows:

C.17:9A-81 Stockholders' meetings; notice.

81. Stockholders' meetings; notice. Notice of all meetings of stockholders shall be given to the stockholders not less than 10 nor more than 60 days prior thereto, by mail, postage prepaid, addressed to each stockholder at his address

as it appears on the books of the bank. The notice shall specify the place, day and hour of the meeting and the nature of the business to be transacted or if participation by stockholders by means of remote communication has been authorized pursuant to subsection b. of section 83 of P.L.1948, c.67 (C.17:9A-83).

Except as otherwise provided by section 79, no business may be transacted at any meeting except that specified in the notice of the meeting.

3. Section 83 of P.L.1948, c.67 (C.17:9A-83) is amended to read as follows:

C.17:9A-83 Place and hour of meeting; adjournments.

83. a. Subject to subsection b. of this section, any meeting of stockholders may be held at the principal office of the bank, or at any branch office, or at any place other than the principal office or a branch office, provided such other place is in a municipality in which the bank maintains its principal office or a branch office. Each meeting shall be convened at such hour as is fixed by the by-laws, or, if not so fixed, at such hour as shall be stated in the call for the meeting. Any meeting may be adjourned from time to time for any period of time and to any place where it is lawful to hold a meeting. When any meeting is adjourned, it shall not be necessary to give any notice of the adjourned meeting.

b. Any meeting of stockholders may be held solely or in part by means of remote communication to the extent the board authorizes and adopts guidelines and procedures governing such a meeting.

(1) One or more stockholders may participate in a meeting of stockholders by means of remote communication to the extent the board authorizes that participation, including the authorization of a meeting of stockholders held solely by means of remote participation. Stockholder meetings conducted in part or solely by means of remote communications and any stockholder's remote participation in those meetings shall be subject to those guidelines and procedures as the board adopts, and shall be in conformity with this subsection.

(2) A stockholder participating in a meeting of stockholders by means of remote communication in reliance upon paragraph (1) of this subsection shall be deemed present in person and shall be entitled to vote at the meeting. In any meeting conducted in part or solely by means of remote communication in reliance upon paragraph (1) of this subsection, the bank shall implement reasonable measures to:

(a) verify that each person participating remotely is a stockholder or a proxy of a stockholder;

(b) provide each stockholder participating remotely with a reasonable opportunity to participate in the meeting, including an opportunity to vote on matters submitted to the stockholders, and to read or hear the proceedings of the meeting substantially concurrently with those proceedings; and

(c) record and maintain a record of any votes or other actions taken by remote communication at the meeting.

4. Section 114 of P.L.1963, c.144 (C.17:12B-114) is amended to read as follows:

C.17:12B-114 Meeting place.

114. a. Subject to subsection b. of this section, members' meetings shall be held at the State association's principal office or at such other place within a radius of 5 miles thereof as the board shall designate.

b. Any meeting of members may be held solely or in part by means of remote communication to the extent the board authorizes and adopts guidelines and procedures governing such a meeting.

(1) One or more members may participate in a meeting of members by means of remote communication to the extent the board authorizes that participation, including the authorization of a meeting of members held solely by means of remote participation. Members' meetings conducted in part or solely by means of remote communication and any member's remote participation in those meetings shall be subject to those guidelines and procedures as the board adopts, and shall be in conformity with this subsection.

(2) A member participating in a meeting of members by means of remote communication in reliance upon paragraph (1) of this subsection shall be deemed present in person and shall be entitled to vote at the meeting. In any meeting conducted in part or solely by means of remote communication in reliance upon paragraph (1) of this subsection, the association shall implement reasonable measures to:

(a) verify that each person participating remotely is a member or a proxy of a member;

(b) provide each member participating remotely with a reasonable opportunity to participate in the meeting, including an opportunity to vote on matters submitted to the members, and to read or hear the proceedings of the meeting substantially concurrently with those proceedings; and

(c) record and maintain a record of any votes or other actions taken by remote communication at the meeting.

5. Section 25 of P.L.1974, c.137 (C.17:12B-254) is amended to read as follows:

C.17:12B-254 Meeting place.

25. a. Subject to subsection b. of this section, stockholders' meetings shall be held at the capital stock association's principal office or at such other place within the State of New Jersey as the board shall designate.

b. Any meeting of stockholders may be held solely or in part by means of remote communication to the extent the board authorizes and adopts guidelines and procedures governing such a meeting.

(1) One or more stockholders may participate in a meeting of stockholders by means of remote communication to the extent the board authorizes that participation, including the authorization of a meeting of stockholders held solely by means of remote participation. Stockholder meetings conducted in part or solely by means of remote communication and any stockholder's remote participation in those meetings shall be subject to those guidelines and procedures as the board adopts, and shall be in conformity with this subsection.

(2) A stockholder participating in a meeting of stockholders by means of remote communication in reliance upon paragraph (1) of this subsection shall be deemed present in person and shall be entitled to vote at the meeting. In any meeting conducted in part or solely by means of remote communication in reliance upon paragraph (1) of this subsection, the association shall implement reasonable measures to:

(a) verify that each person participating remotely is a stockholder or a proxy of a stockholder;

(b) provide each stockholder participating remotely with a reasonable opportunity to participate in the meeting, including an opportunity to vote on matters submitted to the stockholders, and to read or hear the proceedings of the meeting substantially concurrently with those proceedings; and

(c) record and maintain a record of any votes or other actions taken by remote communication at the meeting.

6. This act shall take effect immediately.

Approved August 24, 2021.

CHAPTER 203

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making zero interest loans or principal forgiveness loans to project sponsors to finance a portion of the costs of environmental infrastructure projects.

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

1. a. (1) There is appropriated to the department from the "Clean Water State Revolving Fund," established pursuant to section 1 of P.L.2009, c.77, an amount equal to the federal fiscal year 2021 capitalization grant made available to the State for clean water project loans pursuant to the "Water Quality Act of 1987," 33 U.S.C. s.1251 et seq., and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(2) There is appropriated to the department from the "Interim Environmental Financing Program Fund," established by the New Jersey Infrastructure Bank pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), such amounts as may be necessary to supplement the sums appropriated from the Clean Water State Revolving Fund for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(3) There is appropriated to the department from the "Disaster Relief Emergency Financing Program Fund," established by the New Jersey Infrastructure Bank pursuant to section 1 of P.L.2013, c.93 (C.58:11B-9.5), such amounts as may be necessary to supplement the sums appropriated from the Clean Water State Revolving Fund for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) There is appropriated to the department from the "Drinking Water State Revolving Fund," established pursuant to section 1 of P.L.1998, c.84, an amount equal to the federal fiscal year 2021 capitalization grant made available to the State for drinking water projects pursuant to the "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act").

The department is authorized to transfer from the Clean Water State Revolving Fund to the Drinking Water State Revolving Fund, pursuant to the

"Water Infrastructure Funding Transfer Act," Pub.L.116-63, additional amounts as may be necessary to address a threat to public health, and an amount equal to the maximum amount authorized to be transferred is appropriated to the department for those purposes.

The department is authorized to transfer from the Clean Water State Revolving Fund to the Drinking Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Safe Drinking Water Act to meet present and future needs for the financing of eligible drinking water projects, and an amount equal to that maximum amount is appropriated to the department for those purposes.

The department is authorized to transfer from the Drinking Water State Revolving Fund to the Clean Water State Revolving Fund an amount up to the maximum amount authorized to be transferred pursuant to the Federal Clean Water Act to meet present and future needs for the financing of eligible clean water projects, and an amount equal to that maximum amount is appropriated to the department for those purposes.

Notwithstanding any provision of this act to the contrary, the department is authorized to utilize funds from the Clean Water State Revolving Fund for the purposes of the Drinking Water State Revolving Fund, and may charge interest on loans made with such invested funds to the extent permitted by the Federal Clean Water Act and the Federal Safe Drinking Water Act.

(5) There is appropriated to the department the unappropriated balances from the Clean Water State Revolving Fund, including the balances from the Federal Disaster Relief Appropriations Act, and any repayments of loans and interest therefrom, as may be available on or before June 30, 2022, for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) There is appropriated to the department the unappropriated balances from the "Wastewater Treatment Fund," established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," P.L.1985, c.329, and any repayments of loans and interest therefrom, as may be available on or before June 30, 2022, for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(7) There is appropriated to the department the unappropriated balances from the "1992 Wastewater Treatment Fund," established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and any repayments of loans and interest

therefrom, as may be available on or before June 30, 2022, for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(8) There is appropriated to the department the unappropriated balances from the "2003 Water Resources and Wastewater Treatment Fund," established pursuant to subsection a. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," P.L.2003, c.162, and any repayments of loans and interest therefrom, as may be available on or before June 30, 2022, for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(9) There is appropriated to the department the unappropriated balances from the "Pinelands Infrastructure Trust Fund," established pursuant to section 14 of the "Pinelands Infrastructure Trust Bond Act of 1985," P.L.1985, c.302, and any repayments of loans and interest therefrom, as may be available on or before June 30, 2022, for the purposes of clean water project loans and drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act and for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(10) There is appropriated to the department the unappropriated balances from the "Stormwater Management and Combined Sewer Overflow Abatement Fund," established pursuant to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, and any repayments of loans and interest therefrom, as may be available on or before June 30, 2022, for the purposes of clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(11) There is appropriated to the department the unappropriated balances from the Drinking Water State Revolving Fund and any repayments of loans and interest therefrom, including the balances from the Federal Disaster Relief Appropriations Act as may be available on or before June 30, 2022, for the purposes of drinking water project loans.

(12) There is appropriated to the department such sums as may be needed from loan repayments and interest earnings from the "Water Supply Fund," established pursuant to section 14 of the "Water Supply Bond Act of 1981," P.L.1981, c.261, for the "Drinking Water State Revolving Fund Match

Accounts" contained within that fund, for the purpose of providing the State match as may be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(13) There is appropriated to the department from the "Interim Environmental Financing Program Fund," established by the New Jersey Infrastructure Bank pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), such amounts as may be available on or before June 30, 2022, and any repayments of loans and interest therefrom, as may be necessary to supplement the sums appropriated from the Drinking Water State Revolving Fund for the purposes of drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(14) There is appropriated to the department from the "Disaster Relief Emergency Financing Program Fund," established by the New Jersey Infrastructure Bank pursuant to section 1 of P.L.2013, c.93 (C.58:11B-9.5), such amounts as may be necessary to supplement the sums appropriated from the Drinking Water State Revolving Fund for the purposes of drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(15) There is appropriated to the department such amounts as may be received by the Department of Community Affairs, as the grantee from the United States Department of Housing and Urban Development Community Development Block Grant - Disaster Recovery Program (CDBG-DR), as may be available on or before June 30, 2022, for the purposes of CDBG-DR eligible clean water and drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act and drinking water projects pursuant to the Federal Safe Drinking Water Act.

(16) There is appropriated to the department such sums as may be available on or before June 30, 2022, as repayments of drinking water project loans and any interest therefrom from the "Water Supply Fund," established pursuant to section 14 of the "Water Supply Bond Act of 1981," P.L.1981, c.261, for the purposes of drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(17) Of the sums appropriated to the department from the "Water Supply Fund" pursuant to P.L.1999, c.174, P.L.2001, c.222, P.L.2002, c.70, and

P.L.2003, c.158, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as may be available on or before June 30, 2022, in such amounts as needed to the Drinking Water State Revolving Fund accounts contained within the Water Supply Fund established for the purposes of providing drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act.

(18) Of the sums appropriated to the department from the "1992 Wastewater Treatment Fund" pursuant to P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222, and P.L.2002, c.70, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as may be available on or before June 30, 2022, in such amounts as needed to the Clean Water State Revolving Fund accounts contained within the 1992 Wastewater Treatment Fund for the purposes of providing clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(19) Of the sums appropriated to the department from the "2003 Water Resources and Wastewater Treatment Fund" pursuant to P.L.2004, c.109 and P.L.2007, c.139, the department is authorized to transfer any unexpended balances and any repayments of loans and interest therefrom as may be available on or before June 30, 2022, in such amounts as needed to the Clean Water State Revolving Fund accounts contained within the 2003 Water Resources and Wastewater Treatment Fund for the purposes of providing clean water project loans and providing the State match as may be required for the award of the capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(20) There is appropriated to the department the sums deposited by the New Jersey Infrastructure Bank into the Clean Water State Revolving Fund, the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," established pursuant to the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, the "2003 Water Resources and Wastewater Treatment Fund," and the Drinking Water State Revolving Fund, as appropriate, pursuant to paragraph (6) of subsection c. of section 1 of P.L.2021, c.204, as may be available on or before June 30, 2022, for the purposes of providing clean water project loans and drinking water project loans and providing the State match as may be required for the award of the capitalization grants made available to the

State for clean water projects pursuant to the Federal Clean Water Act and for drinking water projects pursuant to the Federal Safe Drinking Water Act.

Any such amounts shall be for the purpose of making zero interest and principal forgiveness financing loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance a portion of the cost of the construction of clean water projects and drinking water projects listed in sections 2 and 3 of this act, and for the purpose of implementing and administering the provisions of this act, to the extent permitted by the Federal Disaster Relief Appropriations Act, the Federal Clean Water Act, the Federal Safe Drinking Water Act, P.L.2009, c.77, the "Wastewater Treatment Bond Act of 1985." P.L.1985, c.329, the "Water Supply Bond Act of 1981," P.L.1981, c.261, the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Dam, Lake, Stream, Flood Control, Water Resources, and the Wastewater Treatment Project Bond Act of 2003," P.L.2003, c.162, and any amendatory and supplementary acts thereto.

(21) Of the $60 million appropriated to the department for the capital construction of drinking water infrastructure by the State fiscal year 2021 appropriations act, P.L.2020 c.97, up to $25 million may be transferred to the New Jersey Infrastructure Bank to invest, provide debt service reserve or guarantee, or pay interest on behalf of a sponsor of a drinking water environmental infrastructure project.

b. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection a. of section 2 and subsection a. of section 3 of this act for clean water projects, up to the individual amounts indicated and in the priority stated, to the extent there are sufficient eligible project applications, except that any such amounts may be reduced if a project fails to meet the requirements of section 4 or 5 of this act, or by the Commissioner of Environmental Protection pursuant to section 7 of this act.

(1) A maximum of $35 million in principal forgiveness loans, plus any appropriated but unallocated funds designated in State fiscal year 2021 for combined sewer overflow projects, shall be issued as provided in subsection a. of section 3 of this act to communities in combined sewer overflow sewersheds for construction projects that reduce or eliminate discharges from combined sewer overflow outfalls. The amount of a principal forgiveness loan issued pursuant to this paragraph shall not exceed $4 million per borrower whenever practicable. For project costs up to and including $4 million, 50 percent of the

principal of the loan shall be forgiven, and the remaining 50 percent of the loan shall have a blended interest rate of 25 percent of the trust's market rate. For project costs greater than $4 million and up to and including $10 million, the loan shall have a blended interest rate of 50 percent of the trust's market rate. For project costs greater than $10 million, the loan shall have a blended interest rate of 50 percent of the trust's market rate.

(2) A maximum of $10 million in principal forgiveness loans, plus any appropriated but unallocated funds designated in State fiscal year 2021 for water quality restoration projects, shall be issued as provided in subsection a. of section 3 of this act for water quality restoration projects. The amount of a principal forgiveness loan issued pursuant to this paragraph shall not exceed $4 million per borrower whenever practicable. For project costs up to and including $4 million, 50 percent of the principal of the loan shall be forgiven, and the remaining 50 percent of the loan shall have a blended interest rate of 50 percent of the trust's market rate. For project costs greater than $4 million and up to and including $10 million, the loan shall have a blended interest rate of 25 percent of the trust's market rate. For project costs greater than $10 million, the loan shall have a blended interest rate of 50 percent of the trust's market rate.

(3) The projects listed in subsection a. of section 2 of this act and subsection a. of section 3 of this act that were previously identified in P.L.2020, c.49, as amended by P.L.2021, c.21, are granted continued priority status and shall be subject to the provisions of P.L.2020, c.49, as amended by P.L.2021, c.21, provided such projects receive short-term funding prior to June 30, 2021.

c. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated and in the priority stated, provided:

(1) a maximum of 30 percent of the 2021 Drinking Water State Revolving Fund capitalization grant, not to exceed $5 million, plus any funds transferred to the Drinking Water State Revolving Fund pursuant to paragraph (4) of subsection a. of this section may be issued as provided in subsection b. of section 3 of this act for drinking water systems, as follows:

(a) up to $4 million of Drinking Water State Revolving Fund loans, plus any appropriated but unallocated funds designated in State fiscal year 2021 for drinking water systems serving populations of up to 10,000 residents, shall be available for drinking water systems serving populations of up to 10,000 residents wherein principal forgiveness shall not exceed $500,000 in

the aggregate and shall not exceed 50 percent of the total loan amount per project sponsor in an amount not to exceed $1 million per project sponsor.

Loans for drinking water systems serving 500 or fewer residents shall be given the highest priority, followed by systems serving 501 to 10,000 residents;

(b) up to $2 million in principal forgiveness loans for drinking water systems that serve fewer than 500 persons and are assisted by the Community Engineering Corps to come into compliance with federal or State drinking water regulations. A loan issued pursuant to this subparagraph shall have 100 percent principal forgiveness for a loan amount of up to $750,000 per project; and

(c) a maximum of $10 million of principal forgiveness for drinking water systems serving communities with a population of up to 1,000 residents for corrosion control treatment and lead service line replacement projects wherein principal forgiveness shall not exceed 90 percent of the total fund loan amount of $1 million per water system;

(2) up to $103 million of moneys from the Drinking Water State Revolving Fund, plus any appropriated but unallocated funds designated in State fiscal year 2021, may be issued for principal forgiveness loans for drinking water systems serving communities with a weighted median household income less than the median household income for the State to finance lead service line replacements, wherein principal forgiveness shall not exceed 50 percent of the total fund loan amount of: $2 million per water system for systems with fewer than 1,000 known lead service lines, $10 million per water system for systems with 1,000 to 5,000 known lead service lines, and $20 million per water system for systems with greater than 5,000 known lead service lines.

Loans may be made pursuant to this subsection to the extent there are sufficient eligible project applications and as may be required for the award of the capitalization grants made available to the State for drinking water projects pursuant to the Federal Safe Drinking Water Act. Any such amounts may be reduced by the Commissioner of Environmental Protection pursuant to section 7 of this act, or if a project fails to meet the requirements of section 4 or 5 of this act; and

(3) Those projects listed in subsections a. and b. of section 3 of this act that were previously identified in P.L.2020, c.49, as amended by P.L.2021, c.21, are granted continued priority status and shall be subject to the provisions of P.L.2020, c.49, as amended by P.L.2021, c.21, provided such projects receive short-term funding prior to June 30, 2021.

d. The department is authorized to make zero interest and principal forgiveness financing loans to or on behalf of the project sponsors for the environmental infrastructure projects listed in sections 2 and 3 of this act under the same terms, conditions and requirements set forth in this section

from any unexpended balances of the amounts appropriated pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988, c.133, section 1 of P.L.1989, c.189, section 1 of P.L.1990, c.99, section 1 of P.L.1991, c.325, section 1 of P.L.1992, c.38, section 1 of P.L.1993, c.193, section 1 of P.L.1994, c.106, section 1 of P.L.1995, c.219, section 1 of P.L.1996, c.85, section 1 of P.L.1997, c.221, section 2 of P.L.1998, c.84, section 2 of P.L.1999, c.174, section 2 of P.L.2000, c.92, sections 1 and 2 of P.L.2001, c.222, sections 1 and 2 of P.L.2002, c.70, sections 1 and 2 of P.L.2003, c.158, sections 1 and 2 of P.L.2004, c.109, sections 1 and 2 of P.L.2005, c.196, sections 1 and 2 of P.L.2006, c.68, sections 1 and 2 of P.L.2007, c.139, sections 1 and 2 of P.L.2008, c.68, sections 1 and 2 of P.L.2009, c.102, sections 1 and 2 of P.L.2010, c.63, sections 1 and 2 of P.L.2011, c.93, sections 1 and 2 of P.L.2012, c.43, sections 1 and 2 of P.L.2013, c.95, sections 1 and 2 of P.L.2014, c.25, sections 1 and 2 of P.L.2015, c.108, sections 1 and 2 of P.L.2016, c.32, as amended by P.L.2017, c.14, sections 1 and 2 of P.L.2017, c.143, as amended by P.L.2017, c.326, sections 1 and 2 of P.L.2018, c.85, as amended by P.L.2018, c.137 and P.L.2019, c.12, sections 1 and 2 of P.L.2019, c.193, as amended by P.L.2019, c.514, and P.L.2020, c.49, as amended by P.L.2021, c.21, including amounts resulting from the low bid and final building cost reductions authorized pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988, c.133, section 6 of P.L.1989, c.189, section 6 of P.L.1990, c.99, section 6 of P.L.1991, c.325, section 6 of P.L.1992, c.38, section 6 of P.L.1993, c.193, section 6 of P.L.1994, c.106, section 6 of P.L.1995, c.219, section 6 of P.L.1996, c.85, section 6 of P.L.1997, c.221, section 7 of P.L.1998, c.84, section 6 of P.L.1999, c.174, section 6 of P.L.2000, c.92, section 6 of P.L.2001, c.222, section 6 of P.L.2002, c.70, section 6 of P.L.2003, c.158, section 6 of P.L.2004, c.109, section 6 of P.L.2005, c.196, section 6 of P.L.2006, c.68, section 6 of P.L.2007, c.139, section 6 of P.L.2008, c.68, section 7 of P.L.2009, c.102, section 6 of P.L.2010, c.63, section 6 of P.L.2011, c.93, section 6 of P.L.2012, c.43, section 6 of P.L.2013, c.95, section 7 of P.L.2014, c.25, section 7 of P.L.2015, c.108, section 7 of P.L.2016, c.32, as amended by P.L.2017, c.14, section 7 of P.L.2017, c.143 as amended by P.L.2017, c.326, section 7 of P.L.2018, c.85, as amended by P.L.2018, c.137 and P.L.2019, c.12, section 7 of P.L.2019, c.193, as amended by P.L.2019, c.514, and section 7 of P.L.2020, c.49, as amended by P.L.2021, c.21, and from any repayments of loans and interest from the Clean Water State Revolving Fund, the "Wastewater Treatment Fund," the "Water Supply Fund," the "1992 Wastewater Treatment Fund," the "2003 Water Resources and Wastewater Treatment Fund," and amounts deposited therein during State fiscal year 2020 and State fiscal year

2021 pursuant to the provisions of section 16 of P.L.1985, c.329, and section 2 of P.L.2009, c.77 and any amendatory and supplementary acts thereto, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans and interest from the Drinking Water State Revolving Fund.

e. The department is authorized to make zero interest and principal forgiveness Sandy financing loans to or on behalf of the project sponsors for the Sandy environmental infrastructure projects listed in subsection a. of section 3 of this act for clean water projects, in a manner consistent with the Federal Disaster Relief Appropriations Act, up to the individual amounts indicated, except that any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 7 of this act, or if a project fails to meet the requirements of section 4, 5, or 7 of this act, provided a maximum of $300 million shall be provided for Sandy financing loans for clean water projects to provide financial assistance to communities affected by the Storm Sandy, and for projects whose purpose is to reduce flood damage risk and vulnerability or to enhance resiliency to rapid hydrologic change or a natural disaster.

f. For the purposes of this act:

"Department" means the Department of Environmental Protection.

"Federal Disaster Relief Appropriations Act" means the "Disaster Relief Appropriations Act, 2013," Pub.L.113-2, and any amendatory and supplementary acts thereto.

"Sandy financing" means grants, zero interest loans or principal forgiveness loans provided by the Department of Environmental Protection from funds made available to the State for clean water projects or clean water project match, pursuant to the Federal Disaster Relief Appropriations Act.

"Trust" means the New Jersey Infrastructure Bank created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4).

2. a. (1) The department is authorized to expend funds for the purpose of making supplemental zero interest loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Camden County MUA	S340640-18R	$7,500,000	$10,000,000
Elizabeth City	S340942-19R	$206,250	$275,000
Hoboken City	S340635-06R	$30,000,000	$40,000,000
North Bergen MUA	S340652-14R	$3,750,000	$5,000,000
Ocean Twp. SA	S340750-14R	$750,000	$1,000,000

Plumsted Twp.	S340607-03R	$7,500,000	$10,000,000
Rockaway Valley RSA	S340821-07R	$2,250,000	$3,000,000
Franklin Twp SA.	S340839-06-1	$750,000	$1,000,000
Paterson City	S340850-03-1	$1,912,500	$2,550,000
Rockaway Valley RSA	S340821-06-1	$581,250	$775,000
Somerville Borough	S342013-01-1	$1,387,500	$1,850,000
Total Projects:	**11**	**$56,587,500**	**$75,450,000**

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amounts required by these projects based upon final building costs pursuant to section 7 of this act and the loan amounts certified by the Commissioner of Environmental Protection in State fiscal years 2008, 2017, 2019, 2020, and 2021 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 4 of P.L.1985, c.329. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4, 5, or 7 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over projects listed in subsection a. of section 3 of this act.

b. (1) The department is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Newark City	0714001-016R	$2,250,000	$3,000,000
North Jersey District Water Supply Comm.	1613001-025R	$19,125,000	$25,500,000
Total Projects:	**2**	**$21,375,000**	**$28,500,000**

(2) The loans authorized in this subsection shall be made for the difference between the allowable loan amount required by these projects based upon final building costs pursuant to section 7 of this act and the loan amounts certified by the Commissioner of Environmental Protection in State fiscal year 2020 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the department pursuant to section 5 of P.L.1981, c.261. The loans authorized in this subsection shall be made to or on behalf of the project sponsors listed, up to the individual amounts indicated

and in the priority stated, to the extent sufficient funds are available, except as a project fails to meet the requirements of section 4, 5, or 7 of this act.

(3) The zero interest loans for the projects authorized in this subsection shall have priority over projects listed in subsection b. of section 3 of this act.

c. The department is authorized to adjust the allowable department loan amount for projects authorized in this section to between zero percent and 100 percent of the total allowable loan amount. If the department loan amount is adjusted to 100 percent of the total allowable loan amount, the loan shall be provided pursuant to the terms and conditions of the financing program year in which the construction loan component of the project was certified by the department and for which the trust issued an interim financing program loan or, in the absence of an interim financing program loan, the terms and conditions of the State fiscal year 2022 financing program.

3. a. (1) The following environmental infrastructure projects shall be known and may be cited as the "Storm Sandy and State Fiscal Year 2022 Clean Water Project Eligibility List":

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Musconetcong SA	S340384-09	$4,500,000	$6,000,000
Camden County MUA	S340640-17	$2,625,000	$3,500,000
Camden County MUA	S340640-24	$4,875,000	$6,500,000
Rahway Valley SA	S340547-14	$7,125,000	$9,500,000
Rahway Valley SA	S340547-15	$1,941,389	$2,588,518
Camden County MUA	S340640-22	$2,625,000	$3,500,000
Camden County MUA	S340640-23	$4,200,000	$5,600,000
Camden County MUA	S340640-16	$9,975,000	$13,300,000
Newark City	S340815-24	$15,750,000	$21,000,000
Camden County MUA	S340640-18	$63,022,500	$84,030,000
North Bergen MUA	S340652-14	$21,000,000	$28,000,000
Hopatcong Borough	S340488-08	$450,000	$600,000
Jersey City MUA	S340928-15	$30,750,000	$41,000,000
Jersey City MUA	S340928-20	$5,400,000	$7,200,000
Jersey City MUA	S340928-28	$2,025,000	$2,700,000
Jersey City MUA	S340928-31	$8,294,700	$11,059,600
Jersey City MUA	S340928-34	$975,000	$1,300,000
Jersey City MUA	S340928-24	$80,693,069	$108,000,000
Jersey City MUA	S340928-33	$6,750,000	$9,000,000
Elizabeth City	S340942-17	$4,875,000	$6,500,000
Camden County MUA	S340640-13	$9,600,000	$12,800,000

Bayonne City	S340399-31	$1,650,000	$2,200,000
Ocean County UA	S340372-62	$3,225,000	$4,300,000
Ocean County UA	S340372-63	$1,650,000	$2,200,000
Ocean County UA	S340372-61	$3,975,000	$5,300,000
Ocean County UA	S340372-59	$5,715,000	$7,620,000
Hoboken City	S340635-07	$3,750,000	$5,000,000
Hoboken City	S340635-09	$375,000	$500,000
Mount Laurel Twp. MUA	S340943-06	$6,000,000	$8,000,000
Jersey City	S340928-30	$2,033,250	$2,711,000
North Hudson SA	S340952-30	$17,400,000	$23,200,000
Riverside SA	S340490-01	$630,000	$840,000
Perth Amboy City	S340435-11	$4,844,513	$6,459,351
Hackensack City	S340923-14	$6,000,000	$8,000,000
Somerset Raritan Valley SA	S340801-09	$4,875,000	$6,500,000
Somerset Raritan Valley SA	S340801-07	$25,500,000	$34,000,000
Passaic Valley SC	S340689-48	$675,308	$900,410
Passaic Valley SC	S340689-37	$91,125,000	$121,500,000
Passaic Valley SC	S340689-38	$16,125,000	$21,500,000
Passaic Valley SC	S345200-02	$1,500,000	$2,000,000
Passaic Valley SC	S340689-40	$3,750,000	$5,000,000
Passaic Valley SC	S345200-01	$7,125,000	$9,500,000
Passaic Valley SC	S340689-30	$2,775,000	$3,700,000
Passaic Valley SC	S340689-32	$7,500,000	$10,000,000
Northwest Bergen County UA	S340700-16	$3,675,000	$4,900,000
Bergen County UA	S340386-21	$5,700,000	$7,600,000
Linden Roselle SA	S340299-09	$1,575,000	$2,100,000
Linden Roselle SA	S340299-08	$12,750,000	$17,000,000
Lambertville MUA	S340882-09	$1,350,000	$1,800,000
Raritan Twp. MUA	S340485-12	$3,675,000	$4,900,000
Gloucester County UA	S340902-15	$8,625,000	$11,500,000
Stafford Twp.	S344100-03	$4,200,000	$5,600,000
Allentown Borough	S340567-05	$3,825,000	$5,100,000
Stony Brook RSA	S340400-11	$16,500,000	$22,000,000
Evesham MUA	S340838-09	$375,000	$500,000
Howell Twp.	S344040-02	$11,010,000	$14,680,000
Rutgers, The State University of New Jersey	S340500-01	$27,750,000	$37,000,000
Willingboro MUA	S340132-09	$6,750,000	$9,000,000
Ocean County	S344080-10	$187,500	$250,000

Ocean County	S344080-11	$262,500	$350,000
Rockaway Valley RSA	S340821-07	$6,150,000	$8,200,000
Rockaway Valley RSA	S340821-08	$11,625,000	$15,500,000
Ocean County	S344080-09	$975,000	$1,300,000
Western Monmouth UA	S340128-06	$9,825,000	$13,100,000
Chatham Borough	S340715-07A	$5,466,885	$7,289,180
Madison Borough	S340715-07B	$5,466,885	$7,289,180
Wildwood City	S340664-06	$11,784,758	$15,713,010
Point Pleasant Beach Borough	S344190-02	$2,362,500	$3,150,000
Manasquan River RSA	S340911-03	$495,000	$660,000
Little Egg Harbor MUA	S340579-03	$1,779,298	$2,900,000
Middlesex County UA	S340699-14	$8,250,000	$11,000,000
Monmouth County Bayshore Outfall Authority	S340325-04	$2,625,000	$3,500,000
Atlantic County UA	S340809-29	$3,000,000	$4,000,000
Atlantic County UA	S340809-30	$7,575,000	$10,100,000
Toms River MUA	S340145-05	$3,100,000	$4,500,000
Toms River MUA	S340145-08	$1,018,800	$1,358,400
Ocean County UA	S340372-60	$652,500	$870,000
Two Rivers Water Reclamation Authority	S340117-09	$3,000,000	$4,000,000
Brick Twp. MUA	S340448-11	$4,275,000	$5,700,000
Northwest Bergen County UA	S340700-15	$5,250,000	$7,000,000
Northwest Bergen County UA	S340700-18	$1,500,000	$2,000,000
Northwest Bergen County UA	S340700-19	$6,099,338	$8,132,450
Western Monmouth UA	S340128-05	$5,887,500	$7,850,000
Old Bridge MUA	S340945-14	$2,700,000	$3,600,000
Franklin Twp. SA	S340839-09	$5,625,000	$7,500,000
Evesham MUA	S340838-07	$1,200,000	$1,600,000
Mount Laurel Twp MUA	S340943-07	$2,400,000	$3,200,000
Winslow Twp.	S340895-10	$1,275,000	$1,700,000
Ocean Twp. SA	S340750-13	$412,500	$550,000
Ocean Twp. SA	S340750-12	$3,375,000	$4,500,000
Scotch Plains Twp.	S340512-01	$2,025,000	$2,700,000
Burlington Twp.	S340712-17	$750,000	$1,000,000
West Deptford Twp.	S340947-05	$1,061,250	$1,415,000
Princeton	S340656-11	$2,944,259	$3,925,678

Warren Twp. SA	S340964-05	$8,100,000	$10,800,000
Middlesex Borough	S340698-02	$1,926,563	$2,568,750
Pennsville SA	S340870-04	$1,200,000	$1,600,000
Red Bank Borough	S340528-01	$1,125,000	$1,500,000
Glen Ridge Borough	S340861-04	$1,725,000	$2,300,000
Glen Ridge Borough	S340861-03	$334,387	$445,849
Buena Borough MUA	S340518-06	$973,500	$1,298,000
Bradley Beach Borough	S340472-01	$2,025,000	$2,700,000
Lambertville MUA	S340882-10	$525,000	$700,000
Long Beach Twp.	S340023-07	$3,450,000	$4,600,000
Ship Bottom Borough	S340311-05	$3,750,000	$5,000,000
Passaic Valley SC	S340689-45	$7,657,577	$10,210,102
Passaic Valley SC	S340689-54	$11,642,883	$15,523,844
Plumsted Twp.	S340607-03	$12,769,687	$34,000,000
Lakewood Twp. MUA	S340465-02	$3,240,000	$4,320,000
Lower Twp. MUA	S340810-05	$12,825,000	$17,100,000
Mantua Twp. MUA	S340514-02	$1,687,500	$2,250,000
Newton Town	S340449-04	$403,500	$538,000
Cranford Twp.	S340858-04	$9,000,000	$12,000,000
New Jersey Water Supply Authority	S340421-01	$45,000,000	$60,000,000
Northfield City	S340508-02	$112,500	$150,000
Spotswood Borough	S340510-01	$4,070,250	$5,427,000
Paulsboro Borough	S340164-01	$2,062,500	$2,750,000
North Hudson SA	S340952-36	$675,000	$900,000
Clinton Town	S340924-07	$600,000	$800,000
Jersey City MUA	S340928-32	$6,150,000	$12,300,000
Atlantic City MUA	S340439-04	$2,300,000	$3,066,667
East Orange City	S340843-03	$9,000,000	$12,000,000
Gloucester County Improvement Authority	S342016-04	$13,875,001	$18,500,001
Salem County Improvement Authority	S342022-02	$7,399,084	$8,500,000
Burlington City	S340140-02	$1,950,000	$2,600,000
Lakewood Twp. MUA	S340465-03	$1,312,500	$1,750,000
Bloomfield Twp.	S340516-01	$5,423,228	$7,230,970
North Brunswick Twp.	S340888-02	$6,000,000	$8,000,000
University Hospital	S340500-03	$5,850,000	$7,800,000
Manchester Twp.	S340650-08	$2,250,000	$3,000,000

Point Pleasant Beach Borough	S340479-04	$1,447,500	$1,930,000
Allentown Borough	S340567-06	$498,704	$664,938
Ship Bottom Borough	S340311-04	$536,663	$2,750,000
Total Projects:	**133**	**$946,664,729**	**$1,285,265,898**

(2) The department is authorized to make clean water project loans to the following municipalities receiving funding from the "Pinelands Infrastructure Trust Fund," established pursuant to section 14 of the "Pinelands Infrastructure Trust Bond Act of 1985," P.L.1985, c.302:

Project Sponsor	**Project Number**	**Estimated Total Loan Amount**
Pemberton Twp.	Pinelands 1	$2,929,000
Manchester Twp./ Jackson MUA	Pinelands 2	$7,192,035
Galloway Twp.	Pinelands 4	$3,493,440
Winslow Twp.	Pinelands 5	$1,728,940
Total Pinelands Projects:	**4**	**$15,343,415**

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2022 Drinking Water Project Eligibility List":

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Newark City	0714001-020	$13,125,000	$17,500,000
Trenton City	1111001-011	$15,255,000	$20,340,000
Newark City	0714001-019	$9,375,000	$12,500,000
Orange City	0717001-013	$525,000	$700,000
Newark City	0714001-022	$17,250,000	$23,000,000
Bloomfield Twp.	0702001-003	$823,796	$1,098,395
NJ American Water Co., Inc.	1345001-017	$7,575,000	$10,100,000
Burlington City	0305001-002	$2,700,000	$3,600,000
Orange City	0717001-014	$1,500,000	$2,000,000
National Park Borough	0812001-005	$1,144,875	$1,526,500
Moorestown Twp.	0322001-001	$18,468,750	$24,625,000
Brick Twp. MUA	1506001-011	$15,667,500	$20,890,000
East Orange City	0705001-014	$24,750,000	$33,000,000
Newark City	0714001-008	$25,647,000	$34,196,000
East Greenwich	0803001-004	$1,950,000	$2,600,000

Jersey City MUA	0906001-017	$1,305,180	$1,740,240
NJ American Water Co., Inc.	2004002-012	$15,000,000	$20,000,000
Woodbine Borough	0516001-001	$3,750,000	$5,000,000
Newark City	0714001-018	$3,862,500	$5,150,000
Jersey City MUA	0906001-019	$5,025,000	$6,700,000
Wildwood City	0514001-006	$4,637,403	$6,183,204
Little Egg Harbor MUA	1516001-005	$1,087,500	$1,450,000
Clinton Town	1005001-012	$2,625,000	$3,500,000
Long Beach Twp.	1517001-015	$3,119,401	$4,159,201
Milltown Borough	1212001-005	$1,350,000	$1,800,000
Allentown Borough	1302001-002	$411,825	$549,100
Roosevelt Borough	1341001-007	$450,000	$600,000
NJ American Water Co., Inc.	2004002-013	$12,000,000	$16,000,000
Jackson Twp. MUA	1511001-012	$8,250,000	$11,000,000
Clinton Town	1005001-013	$2,250,000	$3,000,000
Brielle Borough	1308001-004	$1,845,000	$2,460,000
Mount Arlington Borough	1426005-001	$165,836	$250,285
Brielle Borough	1308001-005	$2,700,000	$3,600,000
Hampton Borough	1013001-001	$1,350,000	$1,800,000
Little Egg Harbor MUA	1516001-003	$4,143,750	$5,525,000
National Park Borough	0812001-004	$1,275,000	$1,700,000
Hopatcong Borough	1912001-004	$75,000	$100,000
Hamburg Borough	1909001-001	$63,750	$85,000
Highbridge Borough	1014001-001	$75,000	$100,000
Hardyston Municipal Utility Authority	1911006-003	$75,000	$100,000
Total Projects:	**72**	**$430,155,294**	**$574,449,560**

c. The department is authorized to adjust the allowable department loan amount for projects authorized in this section to between zero percent and 100 percent of the total allowable loan amount. If the department loan amount is adjusted to 100 percent of the total allowable loan amount, the loan shall be provided pursuant to the terms and conditions of the financing program year in which the construction loan component of the project was certified by the department and for which the trust issued an interim financing program loan or, in the absence of an interim financing program

loan, the terms and conditions of the State fiscal year 2022 financing program.

4. Any financing loan made by the department pursuant to this act shall be subject to the following requirements:

a. The Commissioner of Environmental Protection has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225, or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto;

b. Except as otherwise provided in this subsection, a loan for an environmental infrastructure project listed in section 2 or 3 of this act shall be subject to the terms and conditions of the financing program year in which the construction loan component of the project was certified by the department and for which the trust issued an interim financing program loan or, in the absence of an interim financing program loan, the terms and conditions of the State fiscal year 2022 financing program. Notwithstanding any provision of this act or a financial plan of the trust for State fiscal years 2018 through 2021 developed pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or section 25 of P.L.1997, c.224 (C.58:11B-21.1) to the contrary, a loan for an environmental infrastructure project listed in section 2 or 3 of this act that is partially funded from the proceeds of bonds issued by the trust to the United States Environmental Protection Agency pursuant to the federal "Water Infrastructure Finance and Innovation Act of 2014," 33 U.S.C. s.3901 et seq., shall be subject to terms and conditions regulating the blending of federal and other funds that are consistent with those provisions of the financial plan of the trust for State fiscal year 2022 that reference the federal "Water Infrastructure Finance and Innovation Act of 2014;"

c. Notwithstanding the provisions of sections 2 and 3 of this act, the department allowable loan amount may be 100 percent of the total allowable loan amount for:

(1) clean water project and drinking water project loans to (a) municipalities that do not satisfy the New Jersey Infrastructure Bank credit policy but are subject to State financial supervision and oversight pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), or (b) municipal, county, or regional sewerage authorities, or utilities authorities, that do not satisfy the New Jersey Infrastructure Bank credit policy but where the municipal participant through its service agreement with the authority or utility is under State financial supervision and oversight pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), and the repayment obligation of the authority or utility is secured by the full faith

and credit of the participating municipality pursuant to the service agreement; and

(2) clean water and drinking water loans to municipalities receiving funding under the United States Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery Program (CDBG-DR);

d. With the exception of a loan for which the department issues 100 percent of the loan amount pursuant to subsection b. of section 2, subsection c. of section 3, and subsection c. of this section, the loan shall be conditioned upon approval of a loan from the New Jersey Infrastructure Bank pursuant to P.L.2021, c.204, prior to June 30, 2021;

e. The loan shall be repaid within a period not to exceed 30 years, or 45 years for combined sewer overflow abatement projects, of the making of the loan; and

f. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the New Jersey Infrastructure Bank pursuant to P.L.2021, c.204, or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

5. Any Sandy financing loan made by the department pursuant to this act shall be subject to the following requirements:

a. The commissioner has certified that the project is in compliance with the provisions of Title X, Chapter 7 of the Federal Disaster Relief Appropriations Act;

b. The commissioner has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto; and

c. The loan shall be subject to any other terms and conditions as may be established by the commissioner and approved by the State Treasurer, which may include, notwithstanding any other provision of law to the contrary, subordination of a loan authorized in this act to loans made by the trust pursuant to P.L.2021, c.204 prior to June 30, 2021, or to administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

6. The eligibility lists and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 2022, and any project sponsor which has not executed and delivered a loan agreement with the department for a loan authorized in this act shall no longer be entitled to that loan.

7. The Commissioner of Environmental Protection is authorized to reduce or increase the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 3 of this act based upon final or low bid building costs defined in and determined in accordance with rules and regulations adopted by the commissioner pursuant to section 4 of P.L.1985, c.329, section 2 of P.L.1999, c.362 (C.58:12A-12.2), or section 5 of P.L.1981, c.261, provided that the total loan amount does not exceed the estimated total allowable loan amount. The commissioner is authorized to reduce or increase the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 3 of this act in an amount not to exceed 10 percent of the total allowable loan amount based upon additional project costs to comply with the department's guidance for asset management, emergency response, flood protection, and auxiliary power.

8. The expenditure of the funds appropriated by this act is subject to the provisions and conditions of P.L.1977, c.224, P.L.1985, c.302, P.L.1985, c.329, P.L.1989, c.181, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and the rules and regulations adopted by the Commissioner of Environmental Protection pursuant thereto, and the provisions of the Federal Disaster Relief Appropriations Act, the Federal Clean Water Act, and the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto.

9. The department shall provide general technical assistance to any project sponsor requesting assistance regarding environmental infrastructure project development or applications for funds for a project.

10. a. Prior to repayment to the Clean Water State Revolving Fund pursuant to sections 1 and 2 of P.L.2009, c.77 and any amendatory and supplementary acts thereto, prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989,

c.181, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, or prior to the repayment to the "Pinelands Infrastructure Trust Fund" pursuant to the provisions of section 5 of P.L.1985, c.302, repayments of loans made pursuant to these acts may be utilized by the New Jersey Infrastructure Bank established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224, under terms and conditions established by the commissioner and trust, approved by the State Treasurer, and consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and federal tax, environmental or securities law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.2021, c.204, and to secure the administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans.

b. Prior to repayment to the Clean Water State Revolving Fund pursuant to section 1 and 2 of P.L.2009, c.77 and any amendatory and supplementary acts thereto, prior to repayment to the "Wastewater Treatment Fund" pursuant to the provisions of section 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, prior to repayment to the Drinking Water State Revolving Fund, prior to repayment to the "2003 Water Resources and Wastewater Treatment Fund" pursuant to the provisions of section 20 of P.L.2003, c.162, prior to repayment to the "Stormwater Management and Combined Sewer Overflow Abatement Fund" pursuant to the provisions of section 15 of P.L.1989, c.181, or prior to repayment to the "Pinelands Infrastructure Trust Fund" pursuant to the provisions of section 5 of P.L.1985, c.302, the trust is further authorized to utilize repayments of loans made pursuant to P.L.1989, c.189, P.L.1990, c.99, P.L.1991, c.325, P.L.1992, c.38, P.L.1993, c.193, P.L.1994, c.106, P.L.1995, c.219, P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222, P.L.2002, c.70, P.L.2003, c.158, P.L.2004, c.109, P.L.2005, c.196, P.L.2006, c.68, P.L.2007, c.139, P.L.2008, c.68, P.L.2009, c.102, P.L.2010, c.63, P.L.2011, c.93, P.L.2012, c.43, P.L.2013, c.95, P.L.2014, c.25, P.L.2015, c.108, P.L.2016, c.32, P.L.2017, c.143, as amended by P.L.2017, c.326, P.L.2018, c.85, as amended by P.L.2018, c.137, P.L.2019, c.12, P.L.2019, c.193, as amended by P.L.2019, c.514, P.L.2020, c.49, as amended by P.L.2021, c.21, or P.L.2021, c.204 to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222,

P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013, c.94, P.L.2014, c.26, P.L.2015, c.107, P.L.2016, c.31, P.L.2017, c.142, as amended by P.L.2017, c.327, P.L.2018, c.84, as amended by P.L.2019, c.30, P.L.2019, c.192, as amended by P.L.2019, c.515, P.L.2020, c.48, as amended by P.L.2021, c.22, or P.L.2021, c.204, and to secure the administrative fees payable to the trust under these loans pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5).

c. To the extent that any loan repayment sums are used to satisfy any trust bond repayment or administrative fee payment deficiencies, the trust shall repay such sums to the department for deposit into the Clean Water State Revolving Fund, the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the Drinking Water State Revolving Fund, the "2003 Water Resources and Wastewater Treatment Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," or the "Pinelands Infrastructure Trust Fund," as appropriate, from amounts received by or on behalf of the trust from project sponsors causing any such deficiency.

11. The Commissioner of Environmental Protection is authorized to enter into capitalization grant agreements as may be required pursuant to the Federal Disaster Relief Appropriations Act, the Federal Clean Water Act, or the Federal Safe Drinking Water Act.

12. There is appropriated to the New Jersey Infrastructure Bank established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans and interest deposited in any account, on or before June 30, 2022, including the "Clean Water State Revolving Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," the "2003 Water Resources and Wastewater Treatment Fund," or the Drinking Water State Revolving Fund, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairperson or secretary of the trust shall certify to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds or accounts established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

13. There is appropriated to the New Jersey Infrastructure Bank established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), funds from the Federal Disaster Relief Appropriations Act deposited in any account including the Clean Water State Revolving Fund, the "Water Supply Fund," or the Drinking Water State Revolving Fund, as appropriate, funds transferred by the department to the New Jersey Infrastructure Bank pursuant to paragraph (21) of subsection a. of section 1 of P.L.2021, c.203, and funds from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairperson of the trust certifies to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds or accounts established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

14. This act shall take effect immediately.

Approved August 24, 2021.

CHAPTER 204

AN ACT authorizing the expenditure of funds by the New Jersey Infrastructure Bank for the purpose of making loans to eligible project sponsors to finance a portion of the cost of construction of environmental infrastructure projects, and making an appropriation.

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

1. a. The New Jersey Infrastructure Bank, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) (hereinafter referred to as "the trust"), is authorized to expend the aggregate sum of up to $1.979 billion and any uncommitted balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93, section 1 of P.L.2001, c.224, section 1 of P.L.2002, c.71, section 1 of P.L.2003, c.159, section 1 of P.L.2004, c.110, section 1 of P.L.2005, c.197, section 1 of P.L.2006, c.67, section 1 of P.L.2007, c.140, section 1 of P.L.2008, c.67, section 1 of P.L.2009, c.101, section 1 of P.L.2010, c.62, section 1 of P.L.2011, c.95, section 1 of P.L.2012, c.38, section 1 of P.L.2013, c.94, section 1 of P.L.2014, c.26, section 1 of P.L.2015, c.107, section 1 of P.L.2016, c.31 as amended by P.L.2017, c.13, section 1 of P.L.2017, c.142 as amended by P.L.2017, c.327, P.L.2018, c.84 as amended by P.L.2019, c.30, section 1 of P.L.2019, c.192 as amended by

P.L.2019, c.515, and P.L.2020, c.48, as amended by P.L.2021, c.22, for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance all or a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of this act.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest, administrative expenses associated with any federal funding programs, if applicable, and the bond issuance expenses as provided in subsection b. of section 7 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of this act;

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of this act;

(5) the amount appropriated to the Department of Environmental Protection for the purpose of making zero interest and principal forgiveness loans pursuant to section 3 of P.L.2021, c.203 in connection with the project costs of a particular project sponsor, to the extent the priority ranking or an insufficiency of funding prevent the department from meeting program demand as provided in subsection f. of section 7 of this act; and

(6) any funds transferred to the trust by the department pursuant to paragraph (21) of subsection a. of section 1 of P.L.2021, c.203.

c. (1) Of the sums made available to the trust from the "Water Supply Trust Fund" established pursuant to subsection a. of section 15 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261), pursuant to P.L.1997, c.223, the trust is authorized to transfer such amounts to the Department of Environmental Protection as needed for drinking water project loans pursuant to the "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act"), under terms and conditions established by the Commissioner of Environmental Protection and trust, and approved by the State Treasurer, which loans shall be jointly administered by the trust and department.

(2) Of the sums appropriated to the trust from the "Wastewater Treatment Trust Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329), pursuant to P.L.1987, c.198, the trust is authorized to transfer such amounts as needed to the Clean Water State

Revolving Fund established pursuant to section 1 of P.L.2009, c.77 for the purposes of issuing loans or providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C. s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(3) Of the sums appropriated to the trust from the "1992 Wastewater Treatment Trust Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), pursuant to P.L.1996, c.86, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) Of the sums appropriated to the trust from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, pursuant to P.L.1998, c.87, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(5) Of the sums appropriated to the trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), pursuant to P.L.2004, c.110, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) Of the sums appropriated to the trust from repayments of loans deposited in any account, including the "Clean Water State Revolving Fund," "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund" or the Drinking Water State Revolving Fund, as appropriate, pursuant to sections 11 and 12 of P.L.1995, c.219, sections 11 and 12 of P.L.1996, c.85, sections 11 and 12 of P.L.1997, c.221, sections 12 and 13 of P.L.1998, c.84, section 11 of P.L.1999, c.174, section 11 of P.L.2000, c.92, section 11 of P.L.2001, c.222, section 11 of P.L.2002, c.70, section 11 of P.L.2003, c.158, section 11 of P.L.2004, c.109, section 11 of P.L.2005, c.196, section 11 of P.L.2006, c.68, section 10 of P.L.2007, c.140,

section 10 of P.L.2008, c.67, section 10 of P.L.2009, c.101, section 10 of P.L.2010, c.62, section 10 of P.L.2011, c.95, section 10 of P.L.2012, c.38, section 10 of P.L.2013, c.94, section 10 of P.L.2014, c.26, section 10 of P.L.2015, c.107, section 10 of P.L.2016, c.31, section 10 of P.L.2017, c.142 as amended by section 10 of P.L.2017, c.327, section 10 of P.L.2018, c.84 as amended by P.L.2019, c.30, section 10 of P.L.2019, c.192 as amended by section 10 of P.L.2019, c.515, section 10 of P.L.2020, c.48, as amended by P.L.2021, c.22, and section 10 of P.L.2021, c.204 for deposit into one or more reserve funds or accounts established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11), the trust shall transfer to the respective fund of origin the uncommitted balance of all such moneys no longer utilized by the trust for such purposes.

d. For the purposes of this act:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds and the earnings thereon;

(2) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261 as amended and supplemented by P.L.1997, c.223, and any clean water projects not eligible for, or interested in, State or federal debt service reserve funds from the Clean Water State Revolving Fund;

(3) "issuance expenses" means any costs related to the issuance of trust bonds and includes, but is not limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents.

(4) "loan origination fee" means the fee charged by the Department of Environmental Protection and financed under the trust loan to pay a portion of the costs incurred by the department in the implementation of the New Jersey Environmental Infrastructure Financing Program; and

(5) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

e. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013, c.94, P.L.2014, c.26, P.L.2015, c.107, P.L.2016, c.31 as amended by P.L.2017, c.13, P.L.2017, c.142 as amended by P.L.2017, c.327, P.L.2018, c.84 as amended by P.L.2019, c.30, P.L.2019, c.192 as amended by P.L.2019, c.515, P.L.2020, c.48, as amended by P.L.2021, c.22, and P.L.2021, c.204.

2. a. (1) The New Jersey Infrastructure Bank is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Loan Amount**
Camden County MUA	S340640-18R	$7,500,000	$10,000,000
Elizabeth City	S340942-19R	$206,250	$275,000
Hoboken City	S340635-06R	$30,000,000	$40,000,000
North Bergen MUA	S340652-14R	$3,750,000	$5,000,000
Ocean Twp. SA	S340750-14R	$750,000	$1,000,000
Plumsted Twp.	S340607-03R	$7,500,000	$10,000,000
Rockaway Valley RSA	S340821-07R	$2,250,000	$3,000,000
Franklin Twp. SA	S340839-06-1	$750,000	$1,000,000
Paterson City	S340850-03-1	$1,912,500	$2,550,000
Rockaway Valley RSA	S340821-06-1	$581,250	$775,000
Somerville Borough	S342013-01-1	$1,387,500	$1,850,000
Total Projects:	**11**	**$56,587,500**	**$75,450,000**

(2) A loan authorized by this subsection shall be made for the difference between the allowable loan amount required by the project based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amount certified by the chairperson, vice chairperson, or secretary of the trust in State fiscal years 2008, 2019, and 2020 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). A loan authorized by this subsection shall be made to or on behalf of the project sponsor listed, up to the individual amount indicated and in the

priority stated, to the extent sufficient funds are available, except if a project fails to meet the requirements of section 6 of this act.

(3) The loans for projects authorized by this subsection shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of this act.

b. (1) The trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Loan Amount**
Newark City	0714001-016R	$2,250,000	$3,000,000
North Jersey District Water Supply Comm.	1613001-025R	$19,125,000	$25,500,000
Total Projects:	**2**	**$21,375,000**	**$28,500,000**

(2) A loan authorized by this subsection shall be made for the difference between the allowable loan amount required by the project based upon final building costs pursuant to subsection a. of section 7 of this act and the loan amount certified by the chairperson, vice chairperson, or secretary of the trust in State fiscal year 2021 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). A loan authorized by this subsection shall be made to or on behalf of the project sponsor listed, up to the individual amount indicated and in the priority stated, to the extent sufficient funds are available, except if a project fails to meet the requirements of section 6 of this act.

(3) The loans for projects authorized by this subsection shall have priority over environmental infrastructure projects listed in subsection b. of section 4 of this act.

c. The trust is authorized to adjust the allowable trust loan amount for the projects authorized in this section to between zero percent and 100 percent of the total allowable loan amount.

3. a. The New Jersey Infrastructure Bank is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in subsection a. of section 2 and subsection a. of section 4 of this act up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act.

The trust is authorized to increase any such amount pursuant to subsection b., c., d., e. or f. of section 7 of this act, or pursuant to section 8 of this act.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e. or f. of section 7 of this act, or pursuant to section 8 of this act.

c. The trust is authorized to make loans to local government units for clean water projects partially funded from the "Pinelands Infrastructure Trust Fund" established pursuant to section 14 of P.L.1985, c.302 for the balance of allowable project costs up to the individual amounts indicated, provided that any such amount may be reduced by the trust pursuant to subsection a. of section 7 of this act, or if a project fails to meet the requirements of section 6 of this act.

The following local government units are eligible for funding from the "Pinelands Infrastructure Trust Fund" and for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) for the following clean water projects:

Project Sponsor	**Project Number**	**Estimated Total Loan Amount**
Pemberton Twp.	Pinelands 1	$2,929,000
Manchester Twp./ Jackson MUA	Pinelands 2	$7,192,035
Galloway Twp.	Pinelands 4	$3,493,440
Winslow Twp.	Pinelands 5	$1,728,940
Total Pinelands Projects:	**4**	**$15,343,415**

4. a. The following environmental infrastructure projects shall be known and may be cited as the "Storm Sandy and State Fiscal Year 2022 Clean Water Project Eligibility List":

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Loan Amount**
Musconetcong SA	S340384-09	$4,500,000	$6,000,000
Camden County MUA	S340640-17	$2,625,000	$3,500,000
Camden County MUA	S340640-24	$4,875,000	$6,500,000
Rahway Valley SA	S340547-14	$7,125,000	$9,500,000
Rahway Valley SA	S340547-15	$1,941,389	$2,588,518

Camden County MUA	S340640-22	$2,625,000	$3,500,000
Camden County MUA	S340640-23	$4,200,000	$5,600,000
Camden County MUA	S340640-16	$9,975,000	$13,300,000
Newark City	S340815-24	$15,750,000	$21,000,000
Camden County MUA	S340640-18	$63,022,500	$84,030,000
North Bergen MUA	S340652-14	$21,000,000	$28,000,000
Hopatcong Borough	S340488-08	$450,000	$600,000
Jersey City MUA	S340928-15	$30,750,000	$41,000,000
Jersey City MUA	S340928-20	$5,400,000	$7,200,000
Jersey City MUA	S340928-28	$2,025,000	$2,700,000
Jersey City MUA	S340928-31	$8,294,700	$11,059,600
Jersey City MUA	S340928-34	$975,000	$1,300,000
Jersey City MUA	S340928-24	$80,693,069	$108,000,000
Jersey City MUA	S340928-33	$6,750,000	$9,000,000
Elizabeth City	S340942-17	$4,875,000	$6,500,000
Camden County MUA	S340640-13	$9,600,000	$12,800,000
Bayonne City	S340399-31	$1,650,000	$2,200,000
Ocean County UA	S340372-62	$3,225,000	$4,300,000
Ocean County UA	S340372-63	$1,650,000	$2,200,000
Ocean County UA	S340372-61	$3,975,000	$5,300,000
Ocean County UA	S340372-59	$5,715,000	$7,620,000
Hoboken City	S340635-07	$3,750,000	$5,000,000
Hoboken City	S340635-09	$375,000	$500,000
Mount Laurel Twp. MUA	S340943-06	$6,000,000	$8,000,000
Jersey City	S340928-30	$2,033,250	$2,711,000
North Hudson SA	S340952-30	$17,400,000	$23,200,000
Riverside SA	S340490-01	$630,000	$840,000
Perth Amboy City	S340435-11	$4,844,513	$6,459,351
Hackensack City	S340923-14	$6,000,000	$8,000,000
Somerset Raritan Valley SA	S340801-09	$4,875,000	$6,500,000
Somerset Raritan Valley SA	S340801-07	$25,500,000	$34,000,000
Passaic Valley SC	S340689-48	$675,308	$900,410
Passaic Valley SC	S340689-37	$91,125,000	$121,500,000
Passaic Valley SC	S340689-38	$16,125,000	$21,500,000
Passaic Valley SC	S345200-02	$1,500,000	$2,000,000
Passaic Valley SC	S340689-40	$3,750,000	$5,000,000
Passaic Valley SC	S345200-01	$7,125,000	$9,500,000
Passaic Valley SC	S340689-30	$2,775,000	$3,700,000
Passaic Valley SC	S340689-32	$7,500,000	$10,000,000
Northwest Bergen County UA	S340700-16	$3,675,000	$4,900,000

Bergen County UA	S340386-21	$5,700,000	$7,600,000
Atlantic County UA	S340809-29	$3,000,000	$4,000,000
Atlantic County UA	S340809-30	$7,575,000	$10,100,000
Toms River MUA	S340145-05	$3,100,000	$4,500,000
Toms River MUA	S340145-08	$1,018,800	$1,358,400
Ocean County UA	S340372-60	$652,500	$870,000
Two Rivers Water Reclamation Authority	S340117-09	$3,000,000	$4,000,000
Brick Twp. MUA	S340448-11	$4,275,000	$5,700,000
Northwest Bergen County UA	S340700-15	$5,250,000	$7,000,000
Northwest Bergen County UA	S340700-18	$1,500,000	$2,000,000
Northwest Bergen County UA	S340700-19	$6,099,338	$8,132,450
Western Monmouth UA	S340128-05	$5,887,500	$7,850,000
Old Bridge MUA	S340945-14	$2,700,000	$3,600,000
Franklin Twp. SA	S340839-09	$5,625,000	$7,500,000
Evesham MUA	S340838-07	$1,200,000	$1,600,000
Mount Laurel Twp. MUA	S340943-07	$2,400,000	$3,200,000
Winslow Twp.	S340895-10	$1,275,000	$1,700,000
Ocean Twp. SA	S340750-13	$412,500	$550,000
Ocean Twp. SA	S340750-12	$3,375,000	$4,500,000
Scotch Plains Twp.	S340512-01	$2,025,000	$2,700,000
Burlington Twp.	S340712-17	$750,000	$1,000,000
West Deptford Twp.	S340947-05	$1,061,250	$1,415,000
Princeton	S340656-11	$2,944,259	$3,925,678
Warren Twp. SA	S340964-05	$8,100,000	$10,800,000
Middlesex Borough	S340698-02	$1,926,563	$2,568,750
Pennsville SA	S340870-04	$1,200,000	$1,600,000
Red Bank Borough	S340528-01	$1,125,000	$1,500,000
Glen Ridge Borough	S340861-04	$1,725,000	$2,300,000
Glen Ridge Borough	S340861-03	$334,387	$445,849
Buena Borough MUA	S340518-06	$973,500	$1,298,000
Bradley Beach Borough	S340472-01	$2,025,000	$2,700,000
Lambertville MUA	S340882-10	$525,000	$700,000
Long Beach Twp.	S340023-07	$3,450,000	$4,600,000
Ship Bottom Borough	S340311-05	$3,750,000	$5,000,000
Passaic Valley SC	S340689-45	$7,657,577	$10,210,102
Passaic Valley SC	S340689-54	$11,642,883	$15,523,844

Plumsted Twp.	S340607-03	$12,769,687	$34,000,000
Lakewood Twp. MUA	S340465-02	$3,240,000	$4,320,000
Lower Twp. MUA	S340810-05	$12,825,000	$17,100,000
Mantua Twp. MUA	S340514-02	$1,687,500	$2,250,000
Newton Town	S340449-04	$403,500	$538,000
Cranford Twp.	S340858-04	$9,000,000	$12,000,000
New Jersey Water Supply Authority	S340421-01	$45,000,000	$60,000,000
Northfield City	S340508-02	$112,500	$150,000
Spotswood Borough	S340510-01	$4,070,250	$5,427,000
Paulsboro Borough	S340164-01	$2,062,500	$2,750,000
North Hudson SA	S340952-36	$675,000	$900,000
Clinton Town	S340924-07	$600,000	$800,000
Jersey City MUA	S340928-32	$6,150,000	$12,300,000
Atlantic City MUA	S340439-04	$2,300,000	$3,066,667
East Orange City	S340843-03	$9,000,000	$12,000,000
Gloucester County Improvement Authority	S342016-04	$13,875,001	$18,500,001
Salem County Improvement Authority	S342022-02	$7,399,084	$8,500,000
Burlington City	S340140-02	$1,950,000	$2,600,000
Lakewood Twp. MUA	S340465-03	$1,312,500	$1,750,000
Bloomfield Twp.	S340516-01	$5,423,228	$7,230,970
North Brunswick Twp.	S340888-02	$6,000,000	$8,000,000
University Hospital	S340500-03	$5,850,000	$7,800,000
Manchester Twp.	S340650-08	$2,250,000	$3,000,000
Point Pleasant Beach Borough	S340479-04	$1,447,500	$1,930,000
Allentown Borough	S340567-06	$498,704	$664,938
Ship Bottom Borough Borough	S340311-04	$536,663	$2,750,000
Total Projects:	**133**	**$946,664,729**	**$1,285,265,898**

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2022 Drinking Water Project Eligibility List":

Project Sponsor	**Project Number**	**Estimated Allowable Trust Loan Amount**	**Estimated Total Loan Amount**
Newark City	0714001-020	$13,125,000	$17,500,000
Trenton City	1111001-011	$15,255,000	$20,340,000
Newark City	0714001-019	$9,375,000	$12,500,000

Orange City	0717001-013	$525,000	$700,000
Newark City	0714001-022	$17,250,000	$23,000,000
Bloomfield Twp.	0702001-003	$823,796	$1,098,395
NJ American Water Co., Inc.	1345001-017	$7,575,000	$10,100,000
Burlington City	0305001-002	$2,700,000	$3,600,000
Orange City	0717001-014	$1,500,000	$2,000,000
National Park Borough	0812001-005	$1,144,875	$1,526,500
Moorestown Twp.	0322001-001	$18,468,750	$24,625,000
Brick Twp. MUA	1506001-011	$15,667,500	$20,890,000
East Orange City	0705001-014	$24,750,000	$33,000,000
Newark City	0714001-008	$25,647,000	$34,196,000
East Greenwich	0803001-004	$1,950,000	$2,600,000
Jersey City MUA	0906001-017	$1,305,180	$1,740,240
NJ American Water Co., Inc.	2004002-012	$15,000,000	$20,000,000
Woodbine Borough	0516001-001	$3,750,000	$5,000,000
Newark City	0714001-018	$3,862,500	$5,150,000
Jersey City MUA	0906001-019	$5,025,000	$6,700,000
Wildwood City	0514001-006	$4,637,403	$6,183,204
Little Egg Harbor MUA	1516001-005	$1,087,500	$1,450,000
Seaside Park Borough	1527001-004	$1,125,000	$1,500,000
NJ American Water Co., Inc.	1345001-021	$19,758,750	$26,345,000
Manchester Twp.	1518005-002	$4,125,000	$5,500,000
Paulsboro Borough	0814001-003	$2,100,000	$2,800,000
Hamburg Borough	1909001-002	$825,000	$1,100,000
Jersey City MUA	0906001-025	$24,000,000	$32,000,000
Jersey City MUA	0906001-009	$3,750,000	$5,000,000
Middlesex Water Co.	1225001-028	$8,400,000	$11,200,000
Old Bridge MUA	1209002-005	$1,875,000	$2,500,000
Hoboken City	0905001-002	$6,000,000	$8,000,000
Wall Twp.	1352003-001	$1,350,000	$1,800,000
Wall Twp.	1352003-002	$2,775,000	$3,700,000
Clinton Town	1005001-011	$ 949,355	$1,265,807
Clinton Town	1005001-010	$1,320,000	$2,640,000
Spotswood Borough	1224001-001	$2,582,936	$3,443,914
Glen Ridge Borough	0708001-008	$1,929,908	$2,573,210
Jersey City MUA	0906001-020	$4,965,000	$6,620,000
Jersey City MUA	0906001-021	$8,250,000	$11,000,000
Jackson Twp. MUA	1511001-013	$15,000,000	$20,000,000
Ship Bottom Borough	1528001-003	$7,500,000	$10,000,000
South Orange Village	0719001-012	$ 600,000	$800,000

Berkeley Twp. MUA	1505004-009	$1,875,000	$2,500,000
Jersey City MUA	0906001-015	$2,691,950	$3,589,266
Hoboken City	0905001-001	$6,375,000	$8,500,000
Hightstown Borough	1104001-010	$1,331,759	$1,775,678
Middlesex Water Co.	1225001-025	$42,750,000	$57,000,000
Evesham MUA	0313001-001	$1,950,000	$2,600,000
Moorestown Twp.	0322001-002	$11,430,000	$15,240,000
Brick Twp. MUA	1506001-009	$4,446,570	$5,928,760
Ship Bottom Borough	1528001-004	$3,075,000	$4,100,000
Lakehurst Borough	1513001-002	$ 900,000	$1,200,000
East Windsor MUA	1101002-005	$1,500,000	$2,000,000
Clinton Town	1005001-012	$2,625,000	$3,500,000
Long Beach Twp.	1517001-015	$3,119,401	$4,159,201
Milltown Borough	1212001-005	$1,350,000	$1,800,000
Allentown Borough	1302001-002	$411,825	$549,100
Roosevelt Borough	1341001-007	$450,000	$600,000
NJ American Water Co., Inc.	2004002-013	$12,000,000	$16,000,000
Jackson Twp. MUA	1511001-012	$8,250,000	$11,000,000
Clinton Town	1005001-013	$2,250,000	$3,000,000
Brielle Borough	1308001-004	$1,845,000	$2,460,000
Mount Arlington Borough	1426005-001	$165,836	$250,285
Brielle Borough	1308001-005	$2,700,000	$3,600,000
Hampton Borough	1013001-001	$1,350,000	$1,800,000
Little Egg Harbor MUA	1516001-003	$4,143,750	$5,525,000
National Park Borough	0812001-004	$1,275,000	$1,700,000
Hopatcong Borough	1912001-004	$75,000	$100,000
Hamburg Borough	1909001-001	$63,750	$85,000
Highbridge Borough	1014001-001	$75,000	$100,000
Hardyston Municipal Utility Authority	1911006-003	$75,000	$100,000
Total Projects:	**72**	**$430,155,294**	**$574,449,560**

c. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between zero percent and 100 percent of the total allowable loan amount. If the trust loan amount is adjusted to 100 percent of the total allowable loan amount, the loan shall be provided pursuant to the terms and conditions of the financing program year in which the construction loan component of the project was certified by the department and for which the trust issued an interim financing program loan

or, in the absence of an interim financing program loan, the terms and conditions of the State fiscal year 2022 financing program.

5. In accordance with and subject to the provisions of sections 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23), and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of, or interest and premium on, the trust bonds whether due at stated maturity, the interest payment dates, or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses for the payment of the loan origination fees; and for the payment of increased costs, as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

6. Any loan made by the New Jersey Infrastructure Bank pursuant to this act shall be subject to the following requirements:

a. The chairperson, vice chairperson, or secretary of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225, P.L.1999, c.175 or P.L.2003, c.162, and any amendatory and supplementary acts thereto, and any rules and regulations adopted pursuant thereto, as applicable. In making this certification, the chairperson, vice chairperson, or secretary may conclusively rely on the project review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon inclusion of the project on a project eligibility list approved pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or section 24 of P.L.1997, c.224 (C.58:11B-20.1);

c. The loan shall be repaid within a period not to exceed 30 years, or 45 years for combined sewer overflow abatement projects, of the making of the loan;

d. The loan, including any portion thereof made by the trust pursuant to subsection f. of section 7 of this act, shall not exceed the allowable project

cost of the environmental infrastructure facility, exclusive of capitalized interest, administrative expenses associated with federal funding programs, if applicable, and issuance expenses as provided in subsection b. of section 7 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of this act, interest earned on project costs as provided in subsection d. of section 7 of this act, the amounts of the loan origination fee as provided in subsection e. of section 7 of this act, refunding increases as provided in section 8 of this act and increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

g. Notwithstanding any provision of this act or a financial plan of the trust for State fiscal years 2018 through 2021 developed pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or section 25 of P.L.1997, c.224 (C.58:11B-21.1) to the contrary, a loan for an environmental infrastructure project listed in section 2 or 3 of this act that is partially funded from the proceeds of bonds issued by the trust to the United States Environmental Protection Agency pursuant to the federal "Water Infrastructure Finance and Innovation Act of 2014," 33 U.S.C. s.3901 et seq., shall be subject to terms and conditions regulating the blending of federal and other funds that are consistent with those provisions of Section III of the applicable financial plan of the trust for State fiscal year 2021 that reference the federal "Water Infrastructure Finance and Innovation Act of 2014."

h. The eligibility lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2022, and any project sponsor

which has not executed and delivered a loan agreement with the trust for a loan authorized in this act shall no longer be entitled to that loan.

7. a. The New Jersey Infrastructure Bank is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 4 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of capitalized interest, issuance expenses, and administrative expenses associated with federal funding programs, if applicable, allocable to each loan made by the trust pursuant to this act.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with the costs identified in paragraphs (3) and (4) of subsection d. of section 1 of this act.

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the loan origination fee.

f. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of this act by the amount appropriated to the Department of Environmental Protection for the purpose of making the corresponding zero interest loan pursuant to section 3 of P.L.2021, c.203 in connection with the project costs of the project sponsor, to the extent the priority ranking or an insufficiency of funding prevents the department from meeting program demand, and for lead abatement projects ineligible for department loans under the Federal Clean Water Act and Safe Drinking Water Act.

8. The New Jersey Infrastructure Bank is authorized to increase the individual amount of loan funds made available to project sponsors by the

trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013, c.94, P.L.2014, c.26, P.L.2015, c.107, P.L.2016, c.31 as amended by P.L.2017, c.13, P.L.2017, c.142 as amended by P.L.2017, c.327, P.L.2018, c.84 as amended by P.L.2019, c.30, P.L.2019, c.192 as amended by P.L.2019, c.515, P.L.2020, c.48, as amended by P.L.2021, c.22, or P.L.2021, c.204, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et al.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.) as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1989, c.181, P.L.1997, c.223, P.L.1997, c.225, P.L.1999, c.175, or P.L.2003, c.162, the rules and regulations adopted pursuant thereto, and the Federal Safe Drinking Water Act, as appropriate.

10. a. There is appropriated to the New Jersey Infrastructure Bank, as needed to make short-term or temporary loans, from funds deposited in any account, including the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "2003 Water Resources and Wastewater Treatment Trust Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," the "Clean Water State Revolving Fund," the "Drinking Water State Revolving Fund," or the funds transferred to the trust by the department pursuant to paragraph (21) of subsection a. of section 1 of P.L.2021, c.203, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, an amount of up to $1 billion, to the extent funds are available, consisting of:

(1) The uncommitted balance currently on deposit as of July 1, 2021 in the special fund (hereinafter referred to as the "Interim Environmental Financing Program Fund") created and established by the trust for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Environmental Financing Program") authorized pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), which balance previously had been appropriated to the trust for such purpose pursuant to section 11 of P.L.2019, c.192, less any Interim

Environmental Financing Program Fund amounts appropriated to the Department of Environmental Protection to supplement the sums appropriated from the Clean Water State Revolving Fund for clean water projects pursuant to the Federal Clean Water Act and from the Drinking Water State Revolving Fund for drinking water projects pursuant to the Federal Safe Drinking Water Act, provided that at no time shall funds committed pursuant to this section exceed funds required by the Department of Environmental Protection to meet long-term obligations; and

(2) such other amounts to be deposited in the Interim Environmental Financing Program Fund, in an aggregate amount that does not exceed at any time, the amount appropriated, provided that the amount so reappropriated and appropriated to the trust for deposit in the Interim Environmental Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Interim Environmental Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim environmental financing project priority list (hereinafter referred to as the "Interim Environmental Financing Program Project Priority List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

b. The Interim Environmental Financing Program Project Priority List shall be submitted to the Secretary of the Senate and the Clerk of the General Assembly at least once each fiscal year. The Secretary of the Senate and the Clerk of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Environmental Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Environmental Financing Program Fund.

c. The trust may issue market rate interest short-term temporary loans for wastewater treatment and water supply projects on the Interim Environmental Financing Program Project Priority List for the reduction of lead in publicly-owned facilities otherwise ineligible to receive funding for that purpose pursuant to subsection a. of this section.

11. a. There is appropriated to the New Jersey Infrastructure Bank for deposit in an environmental subaccount of the special fund created and established by the trust for the short-term or temporary Disaster Relief Emergency Financing Program loan financing or refinancing program (hereinafter referred to as the "Disaster Relief Emergency Financing

Program") authorized pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5) such sums as needed consisting of:

(1) sums from the "Interim Environmental Financing Program Fund" as needed by the trust to make short-term or temporary loans pursuant to the Disaster Relief Emergency Financing Program to any one or more of the project sponsors, for the respective projects thereof; and

(2) such other amounts to be deposited in the Disaster Relief Emergency Financing Program Fund, provided that the amount so appropriated to the trust for deposit in the Disaster Relief Emergency Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Disaster Relief Emergency Financing Program to any one or more of the project sponsors, for the respective projects thereof. Any environmental projects funded by the Disaster Relief Emergency Financing Program shall be subject to the approval of the Commissioner of Environmental Protection.

b. The Environmental Disaster Relief Emergency Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. Any environmental infrastructure project or the project sponsor thereof not identified in the Environmental Disaster Relief Emergency Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Environmental Disaster Relief Emergency Financing Program Fund.

12. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the trust shall not be required to adopt rules and regulations governing the making of Disaster Relief Emergency Financing Program loans.

13. This act shall take effect immediately.

Approved August 24, 2021.

CHAPTER 205

AN ACT concerning the staffing levels of county boards of elections and amending various parts of the statutory law.

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

1. R.S.19:6-17 is amended to read as follows:

County board of elections, membership, appointments, compensation.

19:6-17. a. The county board shall consist of four persons, who shall be legal voters of the counties for which they are respectively appointed. Two members of such county board shall be members of the political party which at the last preceding general election, held for the election of all of the members of the General Assembly, cast the largest number of votes in this State for members of the General Assembly, and the remaining two members of such board shall be members of the political party which at such election cast the next largest number of votes in the State for members of the General Assembly. By a majority vote of the full membership of the board of county commissioners, the board of county commissioners may opt to increase to six persons the membership of the county board of elections. The two new members shall be legal voters of the counties for which they are respectively appointed. If a board of county commissioners votes to increase the membership of a county board of elections to six persons, the board of elections shall consist of an equal representation between the political parties which at the last preceding general election, held for the election of all of the members of the General Assembly, cast the largest and next largest number of votes in this State for members of the General Assembly. No person who holds elective public office shall be eligible to serve as a member of the county board during the term of such elective office. The office of member of the county board shall be deemed vacant upon such member becoming a candidate for an office to be voted upon at any primary, general election or special election, except for nomination for or election to membership in any county committee or State committee or for nomination for or election as a delegate at large or alternate delegate at large, or district delegate or alternate district delegate to any national political convention, such candidacy to be determined by the filing of a petition of nomination duly accepted by such member in the manner provided by law.

b. In all counties, the county board of elections may appoint some suitable person as clerk of the board, and may also appoint any additional office employees, including a director of such employees, it deems necessary, subject to approval by the board of county commissioners of the respective county and to the budgetary process required pursuant to section 11 of P.L.2015, c.249 (C.19:6-21.1). The compensation of the clerk, the director,

and office employees of the county board of elections shall be in an amount recommended by the county board of elections and subject to the approval of the board of county commissioners.

2. R.S.19:6-24 is amended to read as follows:

Powers and duties of board delegated to clerk.

19:6-24. Wherever under the provisions of this Title any powers or duties are given or conferred upon the county boards in any county, the county board having a clerk pursuant to subsection b. of R.S.19:6-17 may, if it so determines, authorize or direct the clerk thereof to perform such duties and exercise such powers under its supervision or in its absence. The clerk of the county board shall have full power and authority in the conduct of the business and clerical affairs of the office of the county board, shall conduct the same in an impartial manner, and shall exercise full authority and direction over the employees in the office.

3. This act shall take effect immediately.

Approved August 24, 2021.

CHAPTER 206

AN ACT authorizing the expenditure of funds by the New Jersey Infrastructure Bank for the purpose of making loans to eligible project sponsors to finance the cost to construct transportation infrastructure projects, and making an appropriation.

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

1. a. The New Jersey Infrastructure Bank, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), is authorized to expend the aggregate sum of $68,349,007 or such amounts as can be supported through balances in the State Transportation Infrastructure Bank Fund, established pursuant to section 34 of P.L.2016, c.56 (C.58:11B-10.4), and via direct appropriation through the State transportation capital program for the purpose of making loans to or, on behalf of, local government units to finance all or a portion of the cost of construction of transportation infrastructure projects listed in section 3 of this act.

b. The bank is authorized to increase the aggregate sums specified in subsection a. of this section for the bank's costs to acquire lending capital, specifically:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 6 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 6 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 6 of this act;

(4) the amounts of the loan origination fee as provided in subsection e. of section 6 of this act.

c. For the purposes of this act:

"bank" means the New Jersey Infrastructure Bank, established pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

"capitalized interest" means an amount equal to interest paid on bank transportation bonds which is funded with bank transportation bond proceeds and the earnings thereon;

"debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses;

"issuance expenses" means any costs related to the issuance of bank transportation bonds and includes, but is not limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents;

"loan origination fee" means the fee charged by the bank to pay a portion of the costs incurred by the bank and the Department of Transportation in the implementation of the New Jersey Transportation Infrastructure Financing Program;

"project sponsor" means a local government unit receiving a loan from the bank pursuant to this act; and

"reserve capacity expenses" means those project costs for reserve capacity which are eligible for loans from the bank in accordance with the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State fiscal year 2022 Transportation Infrastructure Financing Program Financial Plan.

2. The New Jersey Infrastructure Bank is authorized to make loans to or on behalf of the project sponsors for the transportation projects listed in subsection a. of section 3 of this act up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the bank pursuant to subsection a. of section 6 of this act, or if a project fails to meet the requirements of section 5 of this act. The bank is authorized to increase any such amount pursuant to subsection b. through subsection e. of section 6 or section 7 of this act.

3. a. The following transportation infrastructure projects shall be known and may be cited as the "State Fiscal Year 2022 Transportation Financing Program Project Eligibility List":

Applicant	**Project No.**	**Total Allowable State Loan Amount**	**Estimated Total Allowable Loan Amount**
Burlington County	TB0300-001	$ 1,662,500	$ 3,325,000
Bayonne City	TB0901-001	$ 1,460,615	$ 2,921,230
Cape May County	TB0500-007	$ 5,050,000	$ 10,100,000
Essex County	TB0700-003	$ 1,125,000	$ 2,250,000
Camden County	TB0400-001	$ 1,250,000	$ 2,500,000
Orange City	TB0717-001	$ 4,955,000	$ 9,910,000
Little Silver Borough	TB1325-002	$ 1,195,500	$ 2,391,000
Hackensack City	TB0223-001	$ 1,960,890	$ 3,921,780
Little Silver Borough	TB1325-001	$ 229,500	$ 459,000
Somerdale Borough	TB0431-002	$ 526,775	$ 1,053,550
Somerdale Borough	TB0431-001	$ 500,000	$ 1,000,000
Essex County	TB0700-004	$ 2,586,269	$ 5,172,537
Orange City	TB0717-002	$ 4,606,000	$ 9,212,000
Flemington Borough	TB1009-001	$ 835,775	$ 1,671,550
Raritan Township	TB1021-001	$ 1,411,475	$ 2,822,950
Bloomfield Township	TB0702-001	$ 3,490,352	$ 6,980,703
Orange City	TB0717-003	$ 934,250	$ 1,868,500
Raritan Township	TB1021-004	$ 394,604	$ 789,207
Total Projects:	**18**	**$34,174,505**	**$68,349,007**

b. The bank is authorized to adjust the allowable State loan amount and estimated total allowable loan amount for each project authorized in this section as appropriate, provided that the total amount of loan issuance remains within available funds and that each loan is issued pursuant to the terms and conditions of the financing program from the year in which each construction contract for a project was certified, if subject to an interim

financing program loan or, in the absence of an interim financing program loan, the terms and conditions of the State Fiscal Year 2022 Financing Program.

c. The bank is authorized to increase the loan amount of projects authorized pursuant to this section in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to this act.

4. In accordance with and subject to the provisions of sections 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23), and as set forth in the financial plan required pursuant to section 37 of P.L.2016, c.56 (C.58:11B-22.3), any proceeds from bonds issued by the bank to make loans for priority transportation infrastructure projects listed in section 3 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of, or interest and premium on, the bank transportation bonds whether due at stated maturity, the interest payment dates, or earlier upon redemption. A portion of the proceeds from bonds issued by the bank to make loans for priority transportation infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses; for the payment of the loan origination fees; and for the payment of increased costs, as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan.

5. Any loan made by the New Jersey Infrastructure Bank pursuant to this act shall be subject to the following requirements:

a. The chairperson, vice-chairperson or secretary of the bank shall certify that the project is in compliance with the provisions of P.L.1984, c.73, P.L.1985, c.334, P.L.2016, c.56, and any amendatory and supplementary acts thereto, and any rules and regulations adopted pursuant thereto, as applicable, and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program

Financial Plan. In making this certification, the chairperson, vice-chairperson or secretary may conclusively rely on the project review conducted by the Department of Transportation without any independent review thereof by the bank;

b. The loan shall be conditioned upon inclusion of the project on a project eligibility list approved pursuant to section 36 of P.L.2016, c.56 (C.58:11B-20.2);

c. The loan shall be repaid within a period not to exceed 31 years of the making of the loan or, for loans funded pursuant to the "Transportation Infrastructure Finance and Innovation Act" (TIFIA), 23 U.S.C. s.601 et seq., as amended and superseded, not later than the maximum time period allowed by the TIFIA;

d. The loan shall not exceed the allowable project cost of the transportation infrastructure project, exclusive of capitalized interest, administrative expenses associated with federal funding programs, if applicable, and issuance expenses as provided in subsection b. of section 6 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 6 of this act, interest earned on project costs as provided in subsection d. of section 6 of this act, the amounts of the loan origination fee as provided in subsection e. of section 6 of this act, refunding increases as provided in section 7 of this act, and increased costs as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan;

e. The loan shall bear interest, exclusive of any, cost of issuance charges, late charges or administrative fees payable to the bank pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving bank transportation loans, at or below the interest rate paid by the bank on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 37 of P.L.2016, c.56 (C.58:11B-22.3); and

f. The loan shall be subject to all other terms and conditions as the bank shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-

9), any policy statements relating to the Transportation Bank Infrastructure Financing Program and with the financial plan required by section 37 of P.L.2016, c.56 (C.58:11B-22.3). The eligibility lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2022, and any project sponsor which has not executed and delivered a loan agreement with the bank for a loan authorized in this act shall no longer be entitled to that loan.

6. a. The New Jersey Infrastructure Bank is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to section 3 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan. The bank is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan.

b. The bank is authorized to increase each loan amount authorized in section 3 of this act by the amount of capitalized interest, issuance expenses and administrative expenses associated with federal funding programs allocable to each loan made by the bank pursuant to this act.

c. The bank is authorized to increase each loan amount authorized in section 3 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with the costs identified in subsection b. of section 1 of this act.

d. The bank is authorized to increase each loan amount authorized in section 3 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The bank is authorized to increase each loan amount authorized in section 3 of this act by the loan origination fee.

7. The New Jersey Infrastructure Bank is authorized to utilize the proceeds from the refunding of bank transportation bonds to increase the individual amount of loan funds made available to project sponsors by the bank pursuant to this act provided that the amount of the increase is limited to the amount of savings achieved by the refunding of bank transportation bonds issued to make loans authorized by this act.

8. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) as amended and supplemented by P.L.2016, c.56, and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan, as appropriate.

9. a. There is appropriated to the New Jersey Infrastructure Bank for deposit in the transportation subaccount of the special fund created and established by the bank for the short-term or temporary loan financing or refinancing under the "Disaster Relief Emergency Financing Program," program authorized pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), such sums as needed consisting of:

(1) sums from the "Interim Transportation Financing Program Fund" as needed by the bank to make short-term or temporary loans pursuant to the "Disaster Relief Emergency Financing Program" to any one or more of the project sponsors, for the respective projects thereof; and

(2) such other amounts to be deposited in the "Disaster Relief Emergency Financing Program Fund," established pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), provided that the amount so appropriated to the bank for deposit in the "Disaster Relief Emergency Financing Program Fund" shall be utilized by the bank to make short-term or temporary loans pursuant to the "Disaster Relief Emergency Financing Program" to any one or more of the project sponsors, for the respective projects thereof. Any transportation projects funded by the "Disaster Relief Emergency Financing Program" shall be subject to the approval of the Commissioner of Transportation.

b. The Transportation Disaster Relief Emergency Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. Any transportation infrastructure project or the project sponsor thereof not identified in the Transportation Disaster Relief Emergency Financing Program

Project Priority List shall not be eligible for a short-term or temporary loan from the Transportation Disaster Relief Emergency Financing Program Fund.

10. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the bank shall not be required to adopt rules and regulations governing the issuance of loans under the "Disaster Relief Emergency Financing Program."

11. This act shall take effect immediately.

Approved August 24, 2021.

CHAPTER 207

AN ACT concerning financial assistance and grants from the Hazardous Discharge Site Remediation Fund and amending P.L.1993, c.139.

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

1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to read as follows:

C.58:10B-5 Financial assistance from remediation fund.

27. a. (1) Except as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance from the remediation fund may only be rendered to persons who cannot establish a remediation funding source for the full amount of a remediation. Financial assistance pursuant to this act may be rendered only for that amount of the cost of a remediation for which the person cannot establish a remediation funding source. The limitations on receiving financial assistance established in this paragraph (1) shall not limit the ability of municipalities, counties, redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), persons who are not required to establish a remediation funding source for that part of the remediation involving an unrestricted use remedial action, persons performing a remediation in an environmental opportunity zone, or persons who voluntarily perform a remediation, from receiving financial assistance from the fund.

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(2) Financial assistance rendered to persons who voluntarily perform a remediation or perform a remediation in an environmental opportunity zone may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

(3) Financial assistance rendered to persons who do not have to provide a remediation funding source for the part of the remediation that involves an unrestricted use remedial action may only be made for that amount of the cost of the remediation that the person cannot otherwise fund by any of the authorized methods to establish a remediation funding source.

b. Financial assistance may be rendered from the remediation fund to (1) owners or operators of industrial establishments who are required to perform remediation activities pursuant to P.L.1983, c.330 (C.13:1K-6 et al.), upon closing operations or prior to the transfer of ownership or operations of an industrial establishment, (2) persons who are liable for the cleanup and removal costs of a hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.), and (3) persons who voluntarily perform a remediation of a discharge of a hazardous substance or hazardous waste.

c. Financial assistance and grants may be made from the remediation fund to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it holds a tax sale certificate; (2) that it has acquired through foreclosure or other similar means; or (3) that it has acquired, or in the case of a county governed by a board of chosen freeholders, has passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), has passed an ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, for renewable energy generation or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which there has been a discharge or on which there is a suspected discharge of a hazardous substance or hazardous waste.

d. (Deleted by amendment, P.L.2017, c.353)

e. Grants may be made from the remediation fund to qualifying persons who propose to perform a remedial action that would result in an unrestricted use remedial action.

f. Grants may be made from the remediation fund to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for the preliminary assessment, site investigation, remedial investigation, and

remedial action for real property where there is a discharge or suspected discharge of a hazardous substance or hazardous waste within a brownfield development area. Grants may only be made for a remedial action pursuant to this subsection when there is a confirmed discharge of a hazardous substance or hazardous waste. Grants made pursuant to this subsection for a remedial action may not exceed 75 percent of the total costs of the remedial action. An ownership interest in the contaminated property shall not be required in order for a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) to receive a grant for a preliminary assessment, site investigation, and remedial investigation for real property where there is a discharge or suspected discharge of a hazardous substance or hazardous waste in a brownfield development area. Notwithstanding the limitation on the total amount of financial assistance and grants that may be awarded in any one year pursuant to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the authority may award an additional amount of financial assistance and grants in any one year, of up to $2,000,000, to any one municipality, county, or redevelopment entity for the remediation of property in a brownfield development area.

2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to read as follows:

C.58:10B-6 Financial assistance and grants from the fund; allocations; purposes.

28. a. Except for moneys deposited in the remediation fund for specific purposes, and as provided in section 4 of P.L.2007, c.135 (C.52:27D-130.7), financial assistance and grants from the remediation fund shall be rendered for the following purposes. A written report shall be sent to the Senate Environment and Energy Committee, and the Assembly Environment and Solid Waste Committee, or their successors at the end of each calendar quarter detailing the allocation and expenditures related to the financial assistance and grants from the fund.

(1) Moneys shall be allocated for financial assistance to persons, for remediation of real property located in a qualifying municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

(2) Moneys shall be allocated to: (a) municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

(i) projects in brownfield development areas pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

(ii) matching grants up to a cumulative total amount from the fund of $10,000,000 per year of up to 75 percent of the costs of the remedial action for projects involving the redevelopment of contaminated property for recreation and conservation purposes, provided that the use of the property for recreation and conservation purposes is included in the comprehensive plan for the development or redevelopment of contaminated property, up to 75 percent of the costs of the remedial action for projects involving the redevelopment of contaminated property for renewable energy generation, or up to 50 percent of the costs of the remedial action for projects involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

(iii) grants for preliminary assessment, site investigation or remedial investigation of a contaminated site,

(iv) financial assistance or grants for the implementation of a remedial action, or

(v) financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area; or

(b) persons for financial assistance for remediation activities at sites that have been contaminated by a discharge of a hazardous substance or hazardous waste, or at which there is an imminent and significant threat of a discharge of a hazardous substance or hazardous waste, and the discharge or threatened discharge poses or would pose an imminent and significant threat to a drinking water source, to human health, or to a sensitive or significant ecological area.

Except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5), financial assistance and grants to municipalities, counties, or redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be made for real property: (1) on which they hold a tax sale certificate; (2) that they have acquired through foreclosure or other similar means; or (3) that they have acquired, or, in the case of a county governed by a board of chosen freeholders, have passed a resolution or, in the case of a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, or for recreation and conservation purposes. Financial assistance and grants may only be awarded for real property on which

there has been or on which there is suspected of being a discharge of a hazardous substance or a hazardous waste. Grants and financial assistance provided pursuant to this paragraph shall be used for performing preliminary assessments, site investigations, remedial investigations, and remedial actions on real property in order to determine the existence or extent of any hazardous substance or hazardous waste contamination, and to remediate the site in compliance with the applicable health risk and environmental standards on those properties. No financial assistance or grants for a remedial action shall be awarded until the municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real property, provided that a matching grant for 75 percent of the costs of a remedial action for a project involving the redevelopment of contaminated property for recreation and conservation purposes, or a matching grant for 50 percent of the costs of a remedial action for a project involving the redevelopment of contaminated property for affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real property and a grant may be made to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a remediation in a brownfield development area pursuant to subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if the entity does not own the real property. No grant shall be awarded for a remedial action for a project involving the redevelopment of contaminated property for recreation or conservation purposes unless the use of the property is preserved for recreation and conservation purposes by conveyance of a development easement, conservation restriction or easement, or other restriction or easement permanently restricting development, which shall be recorded and indexed with the deed in the registry of deeds for the county. No grant shall be awarded pursuant to this paragraph to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that entity has adopted by ordinance or resolution a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate its commitment to the authority that the subject real property will be developed or redeveloped within a three-year period from the completion of the remediation. Until adoption of the criteria required pursuant to paragraph (8) of subsection a. of section 30 of P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria provided in this paragraph in determining the award of grants from the remediation fund;

(3) Moneys shall be allocated for financial assistance to persons who voluntarily perform a remediation of a hazardous substance or hazardous waste discharge;

(4) (Deleted by amendment, P.L.2017, c.353)

(5) Moneys shall be allocated for (a) financial assistance to persons who own and plan to remediate an environmental opportunity zone for which an exemption from real property taxes has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-3.154), or (b) matching grants for up to 25 percent of the project costs to qualifying persons, municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform a remedial action for the implementation of an unrestricted use remedial action except that no grant awarded pursuant to this paragraph may exceed $250,000; and

(6) At least 30 percent of the moneys in the remediation fund shall be allocated for grants to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for the preliminary assessment, site investigation, remedial investigation, or remedial action of a site, not located in a brownfield development area, that has been contaminated by a discharge or a suspected discharge of a hazardous substance or hazardous waste as authorized in this subsection. The remainder of the moneys in the remediation fund shall be allocated for any of the purposes authorized in this section. For the purposes of paragraph (5) of this subsection, "qualifying persons" means any person who has a net worth of not more than $2,000,000 and "project costs" means that portion of the total costs of a remediation that is specifically to implement an unrestricted use remedial action.

b. Loans issued from the remediation fund shall be for a term not to exceed ten years, except that upon the transfer of ownership of any real property for which the loan was made, the unpaid balance of the loan shall become immediately payable in full. The unpaid balance of a loan for the remediation of real property that is transferred by devise or succession shall not become immediately payable in full, and loan repayments shall be made by the person who acquires the property. Loans to municipalities, counties, and redevelopment entities authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), shall bear an interest rate equal to 2 points below the Federal Discount Rate at the time of approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than 3 percent. All other loans shall bear an interest rate equal to the Federal Discount Rate at the time of approval or at the time of the loan closing,

whichever is lower, except that the rate on such loans shall be no lower than five percent. Financial assistance and grants may be issued for up to 100 percent of the estimated applicable remediation cost, except that the cumulative maximum amount of financial assistance which may be issued to a person, in any calendar year, for one or more properties, shall be $500,000. Financial assistance and grants to any one municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed $3,000,000 in any calendar year except as provided in subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5). Grants to a municipality, county, or redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for up to 100 percent of the total costs of the preliminary assessment, site investigation, or remedial investigation subject to the provisions of section 5 of P.L.2017, c.353 (C.58:10B-6.2). Grants to a municipality, a county, or a redevelopment entity authorized to exercise redevelopment powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not exceed 75 percent of the total costs of the remedial action at any one site. Repayments of principal and interest on the loans issued from the remediation fund shall be paid to the authority and shall be deposited into the remediation fund.

c. No person, other than a qualified person planning to use an unrestricted use remedial action for the cost of the remedial action, a person performing a remediation in an environmental opportunity zone, or a person voluntarily performing a remediation, shall be eligible for financial assistance from the remediation fund to the extent that person is capable of establishing a remediation funding source for the remediation as required pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3).

d. The authority may use a sum that represents up to 2 percent of the moneys issued as financial assistance or grants from the remediation fund each year for administrative expenses incurred in connection with the operation of the fund and the issuance of financial assistance and grants.

e. Prior to March 1 of each year, the authority shall submit to the Senate Environment and Energy Committee and the Assembly Environment and Solid Waste Committee, or their successors, a report detailing the amount of money that was available for financial assistance and grants from the remediation fund for the previous calendar year, the amount of money estimated to be available for financial assistance and grants for the current calendar year, the amount of financial assistance and grants issued for the previous calendar year and the category for which each financial assistance and grant was rendered, the amount of remediation costs expended for each site for the previous calendar year for

which financial assistance or a grant has been approved and the balance remaining on each financial assistance or grant, and any suggestions for legislative action the authority deems advisable to further the legislative intent to facilitate remediation and promote the redevelopment and use of existing industrial sites.

3. This act shall take effect immediately and shall apply to any applicable applications that are pending as of the effective date of this act.

Approved August 24, 2021.

CHAPTER 208

AN ACT concerning hazing, amending P.L.1980, c.169, and supplementing chapters 3 and 37 of Title 18A of the New Jersey Statutes.

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

C.18A:3-27.1 Definitions relative to hazing.

1. As used in sections 2 through 4 of P.L.2021, c.208 (C.18A:3-27.2 through C.18A:3-27.4):

"Hazing" means conduct in connection with an initiation of applicants to or members of a student or fraternal organization as described in section 1 of P.L.1980, c.169 (C.2C:40-3).

"Organization" means a fraternity, sorority, association, corporation, order, society, corps, club or service, social or similar group, whose members are primarily minors, students, or alumni of the organization or an institution of higher education; or a national or international organization with which such a group is affiliated.

"Student" means an individual who attends or has applied to attend or has been admitted to an institution of higher education.

C.18A:3-27.2 Adoption of written policy against hazing.

2. Each public and independent institution of higher education shall adopt a written policy against hazing and, pursuant to that policy, adopt rules prohibiting students or other persons associated with an organization operating under the sanction of, or recognized as, an organization by the institution from engaging in hazing. The institution of higher education shall post the policy at a

publicly accessible location on the institution's Internet website and shall provide a copy of the policy, including the institution's rules, penalties, and program of enforcement, to each organization within the institution.

C.18A:3-27.3 Program for enforcement of policy against hazing.

3. a. Each public and independent institution of higher education shall provide a program for the enforcement of the policy against hazing required under section 2 of P.L.2021, c.208 (C.18A:3-27.2) and shall adopt appropriate penalties for violations of the policy to be administered by the individual or agency at the institution responsible for the sanctioning or recognition of the organization covered by the policy or by such other individual or agency deemed appropriate by the institution.

b. The penalties for violations of the policy may include:

(1) imposition of fines;

(2) the withholding of diplomas or transcripts pending compliance with the rules or payment of fines;

(3) the rescission of permission for the organization to operate on campus or to otherwise operate under the sanction or recognition of the institution; and

(4) the imposition of probation, suspension, dismissal, or expulsion.

c. A penalty imposed under this section shall be in addition to a penalty imposed for a violation of any other institutional rule to which the violator may be subject.

d. A policy adopted under section 2 of P.L.2021, c.208 (C.18A:3-27.2) shall apply to each act conducted on or off campus if the acts are deemed to constitute hazing.

C.18A:3-27.4 Report on violations.

4. a. Each public and independent institution of higher education shall maintain a report which shall include information on all violations of the institution's anti-hazing policy and federal and State laws related to hazing that are reported to the institution. Information on a reported violation shall be retained by the institution for five years.

b. The report shall include:

(1) the date when the subject was charged with a violation of the institution's anti-hazing policy or a federal or State law related to hazing;

(2) a general description of the violation, any investigation and findings by the institution and, if applicable, penalties imposed; and

(3) the date the matter was resolved.

c. An institution shall post the initial report at a publicly accessible location on the institution's Internet website by January 15, 2022. The initial

report shall include information concerning violations that have been reported to the institution for the five consecutive years prior to the effective date of this act, to the extent the institution has retained information concerning the violations. An institution shall post an updated report biannually on January 1 and August 1.

d. The report shall not include the personal identifying information of an individual.

C.18A:37-32.2 Policy against hazing for district with high school, middle school.

5. a. Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall adopt a written policy against hazing.

b. The board of education and governing board or chief school administrator shall ensure that students are informed of the anti-hazing policy, including the rules, penalties, and program of enforcement under the policy.

c. The board of education and governing board or chief school administrator shall post the policy on the district's or nonpublic school's publicly accessible Internet website.

C.18A:37-32.3 Program for enforcement of policy against hazing.

6. a. Each board of education of a school district with a high school or middle school and the governing board or chief school administrator of a nonpublic high school or middle school shall provide a program for the enforcement of the policy against hazing required under section 5 of P.L.2021, c.208 (C.18A:37-32.2) and shall adopt appropriate penalties for violation of the policy.

b. The penalties for violations of the policy may include:

(1) the withholding of diplomas or transcripts pending compliance with the rules;

(2) the rescission of permission for the organization or group, whose student members are being penalized under the anti-hazing policy, to operate on campus or school property or to otherwise operate under the sanction or recognition of the school district or nonpublic school; and

(3) the imposition of probation, suspension, dismissal, or expulsion.

c. A penalty imposed under this section shall be in addition to a penalty imposed for violation of any other school district or nonpublic school rule to which the violator may be subject.

d. A policy adopted under section 5 of P.L.2021, c.208 (C.18A:37-32.2) shall apply to each act conducted on or off campus if the acts are deemed to constitute hazing.

7. Section 1 of P.L.1980, c.169 (C.2C:40-3) is amended to read as follows:

C.2C:40-3 Hazing.

1. a. A person is guilty of hazing, if, in connection with initiation of applicants to or members of a student or fraternal organization, whose membership is primarily students or alumni of the organization or an institution of higher education, the person knowingly or recklessly:

(1) causes, coerces, or otherwise induces another person to commit an act that violates federal or State criminal law;

(2) causes, coerces, or otherwise induces another person to consume any food, liquid, alcoholic liquid, drug or other substance which subjects the person to a risk of emotional or physical harm or is otherwise deleterious to the person's health;

(3) subjects another person to abuse, mistreatment, harassment, or degradation of a physical nature, including, but not limited to, whipping, beating, branding, excessive calisthenics, or exposure to the elements;

(4) subjects another person to abuse, mistreatment, harassment, or degradation of a mental or emotional nature, including, but not limited to, activity adversely affecting the mental or emotional health or dignity of the individual, sleep deprivation, exclusion from social contact, or conduct that could result in extreme embarrassment;

(5) subjects another person to abuse, mistreatment, harassment, or degradation of a sexual nature; or

(6) subjects another person to any other activity that creates a reasonable likelihood of bodily injury to the person.

Hazing shall not include any reasonable and customary athletic, law enforcement, or military training; contests; competitions; or events.

b. Hazing is a crime of the third degree if an actor commits an act prohibited in subsection a. of this section which results in death or serious bodily injury to another person and is a crime of the fourth degree if the actor commits an act prohibited in subsection a. of this section which results in bodily injury to another person. Otherwise, hazing is a disorderly persons offense.

c. In addition to any other sanctions or penalties that may be imposed, a student or fraternal organization described in subsection a. of this section, or an institution of higher education, that knowingly or recklessly promotes

or facilitates a person to commit an act of hazing prohibited in this section shall be subject to a fine of not less than $1,000 or more than $5,000 for an initial violation of subsection a. of this section, and a fine of not less than $5,000 or more than $15,000 for each subsequent violation.

d. (1) A person, student or fraternal organization, or institution of higher education, and another person acting in concert with the person, organization, or institution, shall be immune from prosecution under this section if the person, or an employee, officer, or other agent acting on behalf of the organization or institution, as the case may be:

(a) called 9-1-1, or otherwise contacted campus security, police, or emergency services, and reported that a person was in need of medical assistance due to an act of hazing as described in this section;

(b) the caller provided the caller's name and, if applicable, the name of the person acting in concert with the caller to the 9-1-1 operator or other recipient of the emergency contact;

(c) the caller was the first to make the 9-1-1 report or other emergency report; and

(d) the caller and, if applicable, the person acting in concert with the caller remained on the scene with the person in need of medical assistance until assistance arrived and cooperated with the emergency services on the scene.

(2) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer or other official empowered to act as an officer for the arrest of offenders against the laws of this State, or a prosecutor, who, acting in good faith, arrested or charged a person who is thereafter determined to be entitled to immunity from prosecution under this subsection shall not be subject to any civil liability for the wrongful arrest or charge.

8. Section 2 of P.L.1980, c.169 (C.2C:40-4) is amended to read as follows:

C.2C:40-4 Consent, sanction not available as defense.

2. a. Notwithstanding any other provision of Title 2C of the New Jersey Statutes to the contrary, consent shall not be available as a defense to a prosecution under section 1 of P.L.1980, c.169 (C.2C:40-3).

b. It shall not be an affirmative defense to a prosecution under section 1 of P.L.1980, c.169 (C.2C:40-3) that the conduct in which the actor engaged was sanctioned or approved by a student or fraternal organization or an institution of higher education.

9. This act shall take effect on the first day of the seventh month next following the date of enactment, except the Commissioner of Education and the Attorney General may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved August 24, 2021.

CHAPTER 209

AN ACT establishing the Amistad Commission Exemplary Award Program, supplementing Title 18A of the New Jersey Statutes, and making an appropriation.

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

C.52:16A-88.1 "Amistad Commission Exemplary Award Program."

1. a. The Amistad Commission shall establish the "Amistad Commission Exemplary Award Program." The purpose of the program is to identify outstanding educators, and the school district in which the educator is employed, for special recognition who have shown a commitment to furthering student knowledge on the African slave trade, slavery in America, the vestiges of slavery in this country, and the contributions of African-Americans to our society.

b. The commission shall invite school districts, charter schools, and renaissance school projects to submit nominations, on an application to be developed by the commission, by February 1 of each year of an exemplary teacher who deserves recognition for efforts to:

(1) ensure that all New Jersey students acquire a broad and deep knowledge of all people who contributed to the founding and development of New Jersey and the United States;

(2) promote the self-esteem, confidence, and identity of students who previously may not have learned about past and living examples of people of their own cultural identity who have had positive impacts upon the American story; and

(3) provide exemplary lessons, units of study, or courses of study that demonstrate effective instruction of students in alignment with the Amistad curriculum and which lessons, units, or courses of study may be replicated by other educators.

c. Recipients of the Amistad Commission Exemplary Award shall be named annually by the Amistad Commission Exemplary Award Committee.

The committee shall be an ad hoc committee, the members of which, except for the executive director of the Amistad Commission, shall be appointed annually. The committee shall be comprised of the following members:

(1) one member appointed by the Governor;

(2) one member of the Senate appointed by the President of the Senate;

(3) one member of the General Assembly appointed by the Speaker of the General Assembly;

(4) one member appointed by the New Jersey Education Association;

(5) one member appointed by the New Jersey Principals and Supervisors Association; and

(6) the executive director of the Amistad Commission, or a designee, who shall serve as the chair of the Amistad Commission Exemplary Award Committee.

d. The award committee shall annually select two teachers to receive the Amistad Commission Exemplary Award: one teacher from a school that provides instruction in any of the grades kindergarten through eight; and one teacher from a school that provides instruction in any of the grades nine through 12. Recipients of this award shall each receive $2,500 in recognition of their extraordinary contributions.

e. Each school district in which the award recipient selected pursuant to the provisions of subsection d. of this section is employed shall also receive the Amistad Commission Exemplary Award. Each school district that receives an award under the provisions of this subsection shall receive $2,500, which shall be used to assist other teachers in the school district implement the curriculum and teaching techniques of the teacher award recipient.

2. There is appropriated from the General Fund the sum of $10,000 to the Amistad Commission to implement the provisions of this act.

3. This act shall take effect in the first full school year following the date of enactment.

Approved August 31, 2021.

CHAPTER 210

AN ACT concerning pediatric cancer research, supplementing chapter 9 of Title 54A of the New Jersey Statutes and supplementing and amending P.L.1983, c.6 (C.52:9U-1 et seq.).

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

C.54A:9-25.47 "New Jersey Pediatric Cancer Research Fund."

1. a. There is established in the Department of the Treasury a special fund to be known as the "New Jersey Pediatric Cancer Research Fund."

b. Each taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's refund or an enclosed contribution shall be deposited in the special fund.

c. Any costs incurred by the Division of Taxation for collection or administration attributable to this act may be deducted from receipts collected pursuant to this act, as determined by the Director of the Division of Budget and Accounting in the Department of the Treasury. The State Treasurer shall deposit net contributions collected pursuant to this section to the "New Jersey Pediatric Cancer Research Fund."

d. The Legislature shall annually appropriate all funds deposited in the "New Jersey Pediatric Cancer Research Fund" established pursuant to this section to the New Jersey State Commission on Cancer Research, established pursuant to section 4 of P.L.1983, c.6 (C.52:9U-4), for pediatric cancer research projects.

e. As used in this section, "pediatric cancer research project" means a scientific research project approved pursuant to section 2 of P.L.2021, c.210 (C.52:9U-6.4), which scientific research project focuses on the causes, prevention, education, screening, treatment, or cure of pediatric cancer, or the symptoms or effects experienced by patients following completion of a course of treatment for pediatric cancer, and may include, but shall not be limited to, basic, clinical, and epidemiologic research.

C.52:9U-6.4 Applications for grants.

2. The New Jersey State Commission on Cancer Research, in consultation with the advisory group established pursuant to section 3 of P.L.2021, c.210 (C.52:9U-6.5), shall solicit, receive, evaluate and approve applications of qualifying research institutions for grants from the "New Jersey Pediatric Cancer Research Fund," established pursuant to section 1 of P.L.2021, c.210 (C.54A:9-25.47), to fund pediatric cancer research projects.

C.52:9U-6.5 Advisory group.

3. a. The New Jersey State Commission on Cancer Research shall establish an advisory group within the commission which shall be responsible for advising the commission on how moneys from the fund

established pursuant to section 1 of P.L.2021, c.210 (C.54A:9-25.47) to support pediatric cancer research projects will be distributed by the commission.

b. The size and composition of the advisory group shall be at the discretion of the commission and shall be limited to individuals who either treat patients with pediatric cancer, conduct research into pediatric cancer, advocate to advance pediatric cancer research or treatment, or have been affected by their own or a family member's diagnosis of pediatric cancer.

c. The advisory group shall meet at such times and frequencies as shall be required by the commission.

4. Section 3 of P.L.1983, c.6 (C.52:9U-3) is amended to read as follows:

C.52:9U-3 Definitions.

3. As used in this act:

"Approved research project" means a scientific research project, which is approved by the commission and which focuses on the genetic, biochemical, viral, microbiological and environmental causes of cancer, and may include, but is not limited to, behavioral, socio-economic, demographic and psychosocial research or research into methods of clinical treatment; or which focuses on pain management and palliative care for persons diagnosed with cancer.

"Commission" means the New Jersey State Commission on Cancer Research established pursuant to this act.

"Institutional support services" means all services, facilities, equipment, personnel and expenditures associated with the creation and maintenance of approved research projects.

"Pediatric cancer research project" means a scientific research project approved pursuant to this act, which scientific research project focuses on the causes, prevention, education, screening, treatment, or cure of pediatric cancer, or the symptoms or effects experienced by patients following completion of a course of treatment for pediatric cancer, and may include, but shall not be limited to, basic, clinical, and epidemiologic research.

"Qualifying research institution" means the Coriell Institute for Medical Research in Camden, New Jersey, Rutgers--The State University, Rowan University, Princeton University and any other institution approved by the commission, which is conducting an approved research project. For the purposes of sections 2 through 5 of P.L.2021, c.210 (C.52:9U-6.4 et al.), "qualifying research institution" may include academic medical institutions, State or local government agencies, public or private organizations within

New Jersey, and any other institution approved by the commission, which is conducting a pediatric cancer research project.

5. Section 5 of P.L.1983, c.6 (C.52:9U-5) is amended to read as follows:

C.52:9U-5 Duties of commission.

5. The commission shall:

a. Review and authorize approved research projects;

b. Apportion all available funds to qualifying research institutions to finance approved research projects and necessary institutional support services;

c. Ensure that funds appropriated to approved research projects are not diverted to any other use;

d. Take steps necessary to encourage the development within the State of research projects on:

(1) the causes of cancer; and

(2) pain management and palliative care for persons diagnosed with cancer;

e. Compile a directory of all cancer research projects being conducted in the State; and

f. Provide the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, with a report by January 30 of each year describing the status of the commission's activities and the results of its funded research efforts, which report shall include, with respect to the pediatric cancer research fund established pursuant to section 1 of P.L.2021, c.210 (C.54A:9-25.47), a summary of the use and impact of funds expended in the prior fiscal year and any recommendations for future initiatives or action regarding pediatric cancer research funding.

6. Section 8 of P.L.1983, c.6 (C.52:9U-8) is amended to read as follows:

C.52:9U-8 Annual appropriation.

8. $1,000,000.00 shall be appropriated annually from the Cancer Research Fund established by P.L.1982, c.40 (C.54:40A-8 et al.) to effectuate the purposes of this act, except that only $500,000.00 shall be appropriated from the fund in fiscal year 1982-1983. The full amount of the annual appropriation from the Cancer Research Fund mandated by this section to effectuate the purposes of this act shall be made notwithstanding any monies received by taxpayer voluntary contribution through gross income tax return to any cancer research fund designated for a specific type or category of cancer by State law.

7. This act shall take effect immediately and apply to taxable years beginning on or after January 1 next following enactment.

Approved September 16, 2021.

CHAPTER 211

AN ACT concerning tuition and fees at institutions of higher education and proprietary degree-granting institutions and amending P.L.2019, c.201.

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

1. Section 2 of P.L.2019, c.201 (C.18A:3B-6b) is amended to read as follows:

C.18A:3B-6b Financial aid "shopping sheet."

2. a. A public or independent institution of higher education or a proprietary institution licensed to offer academic degrees shall provide a financial aid "shopping sheet" to each prospective student as part of the institution's financial aid offer to that student. The purpose of the shopping sheet shall be to provide prospective students and their families with clear information on the costs, loan options, and estimated debt that the student will incur in attending the institution, and to allow students and families to easily evaluate and compare financial aid packages from different institutions.

The institution shall also provide a shopping sheet annually to each student enrolled in the institution to ensure that returning students and their families understand their annual costs, loan options, and estimated debt to be incurred.

b. The Secretary of Higher Education shall prescribe a model format for the shopping sheet required by subsection a. of this section. Each public or independent institution of higher education or proprietary institution licensed to offer academic degrees shall utilize either the model format developed by the secretary or the most current financial aid shopping sheet developed by the United States Department of Education or the Consumer Financial Protection Bureau. The model shopping sheet prescribed by the secretary shall include, at a minimum, the following information:

(1) the total cost for one year of attendance at the institution, including tuition, student fees, room and board, books and materials, and transportation and other educational costs;

(2) the total amount per year of grants and scholarships awarded to that student, including any grants and scholarships from the institution, federal grants, State grants, or other scholarships;

(3) the total net amount the student will owe for one year of attendance at the institution, after taking into account any grants and scholarships;

(4) the total amount per year of student loans and work study funds that the student is eligible for, broken down by federal Perkins loans, federal Direct Subsidized loans, federal Direct Unsubsidized loans, and federal, State, or institutional work study funds;

(5) the median borrowing in federal loans for undergraduate study at the institution and the average monthly payment over 10 years for this amount;

(6) the percentage of students from the institution who defaulted on their student loans; and

(7) in the case of a county college or a proprietary institution licensed to offer associate degrees, the percentage of students at the college or institution who graduate within three years as compared to the average rate at other county colleges or proprietary institutions as applicable, and in the case of a four-year institution of higher education or a proprietary institution licensed to offer baccalaureate degrees, the percentage of students at the institution who graduate within six years as compared to the average rate at other four-year public or independent institutions of higher education or other proprietary institutions as applicable.

c. The secretary, in developing the model format for the shopping sheet, shall consider any sample or model formats for a financial aid shopping sheet developed by the United States Department of Education or the Consumer Financial Protection Bureau.

2. This act shall take effect in the first full academic year following enactment.

Approved September 16, 2021.

CHAPTER 212

AN ACT appropriating $5,000,000 to the New Jersey Pediatric Cancer Fund.

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

1. a. There is appropriated from the General Fund to the New Jersey Pediatric Cancer Research Fund established pursuant to section 1 of P.L.2021, c.210 (C.54A:9-25.47) the sum of $5,000,000 for pediatric cancer research projects.

b. As used in this section, "pediatric cancer research project" means the same as that term is defined in section 1 of P.L.2021, c.210 (C.54A:9-25.47).

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 213

AN ACT concerning provision of energy to certain manufacturing facilities, and amending P.L.2019, c.437.

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

1. Section 1 of P.L.2019, c.437 (C.54:32B-8.47b) is amended to read as follows:

C.54:32B-8.47b Definitions relative to provision of energy to certain manufacturing facilities.

1. As used in P.L.2019, c.437 (C.54:32B-8.47b et seq.):

"Authority" means the New Jersey Economic Development Authority established by P.L.1974, c.80 (C.34:1B-1 et seq.).

"Comprehensive energy audit" means the same as defined in section 2 of P.L.1995, c.180 (C.48:2-21.25).

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Division" means the Division of Taxation in the Department of the Treasury.

"Recovered materials" means the same as defined in 40 C.F.R. s.247.3.

"Recovered materials manufacturing facility" means a facility that: (1) received service under an electric public utility rate that applied only to the owner of the facility on January 1, 2004; (2) manufactures products made from recovered materials, provided however, that not less than 50 percent of the content of such products produced in this State meet the definition of recovered materials; (3) completed a comprehensive energy audit not more than 48 months before but not later than 90 days after the effective date of P.L.2019, c.437

(C.54:32B-8.47b et seq.); and (4) employed, individually or collectively with an affiliated facility, not less than 250 employees in this State on January 1, 2019.

"Recycled materials" means any item or commodity which is manufactured or produced in whole or in part from post-consumer waste material.

"Recycled materials manufacturing facility" means a facility that: (1) received service under an electric public utility rate that applied only to the owner of the facility on January 1, 2004 at or above 110 kilovolts delivery; (2) manufactures products made from recycled materials, provided however, that not less than 90 percent of the content of such products produced in this State meet the definition of recycled materials; and (3) employed not less than 200 employees in this State on January 1, 2020.

"Tax exemption period" means:

(1) for a recovered materials manufacturing facility, a period of seven years beginning on a date specified by the owner of a recovered materials manufacturing facility following consultation and filing of notice with the division, provided, however, that the beginning date shall be specified to occur after December 31, 2019 and before January 1, 2023; or

(2) for a recycled materials manufacturing facility, an initial period of seven years beginning on a date specified by the owner of a recycled materials manufacturing facility following consultation and filing of notice with the division, provided, however, that the beginning date shall be specified to occur after the effective date of P.L.2021, c.213.

2. Section 2 of P.L.2019, c.437 (C.54:32B-8.47c) is amended to read as follows:

C.54:32B-8.47c Exemption for certain receipts.

2. a. Receipts from the sale or use of energy and utility service to or by a recovered materials manufacturing facility or a recycled materials manufacturing facility for use or consumption directly and primarily in the production of tangible personal property shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), during the tax exemption period.

b. Notwithstanding the provisions of subsection a. of this section, a seller of energy and utility service shall charge and collect from a purchaser that is a recovered materials manufacturing facility or a recycled materials manufacturing facility, and remit to the division, the sales and use tax at the rate then in effect, and the tax shall be refunded to the purchaser by the filing, within 30 days of the close of the calendar quarter in which the sale or use is made or rendered, of a claim with the director for a refund of sales and use taxes paid for

energy and utility service, which refund shall be paid within 60 days of the filing of a claim for refund. Proof of claim for refund shall be made by the submission of auditable receipts and such other documentation as the director may require.

c. (1) If the owner of a recovered materials manufacturing facility or a recycled materials manufacturing facility relocates the facility to a location outside this State during the tax exemption period, the owner of the facility shall pay the director the amount of tax for which an exemption shall have been allowed and refunded in accordance with subsection b. of this section.

(2) The State Treasurer shall notify the director of the relocation of a recovered materials manufacturing facility or a recycled materials manufacturing facility to a location outside this State, and the director shall issue a tax assessment for the recapture of tax, equal to the amount of tax for which an exemption shall have been allowed and refunded in accordance with subsection b. of this section.

(3) The recapture of tax shall be a State tax subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., and shall be deposited in the General Fund.

3. Section 3 of P.L.2019, c.437 (C.54:32B-8.47d) is amended to read as follows:

C.54:32B-8.47d Annual review of financial records.

3. a. The division, in consultation with the authority, shall annually review the financial records of a recovered materials manufacturing facility or a recycled materials manufacturing facility that is eligible for a sales and use tax exemption pursuant to section 2 of P.L.2019, c.437 (C.54:32B-8.47c), in order to determine whether it is economically feasible for the State to continue to allow that recovered materials manufacturing facility or recycled materials manufacturing facility to receive that sales and use tax exemption.

b. (1) Upon the completion of the review required by this section, the division, in consultation with the authority, shall prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), an annual report to the Legislature containing their recommendation as to whether the sales and use tax exemption should be continued or whether the exemption should be altered, terminated, or repealed.

(2) For a recovered materials manufacturing facility, the division, in consultation with the authority, shall submit the first annual report on the first day of the ninth month following the commencement of the tax exemption period and shall review the period beginning with the first day after the commencement of the tax exemption period and extending for the subsequent six months. Each of the six subsequent annual reports shall review the 12-month

period beginning on the first day after the close of the prior reporting period. For a recycled materials manufacturing facility, the division, in consultation with the authority, shall submit the first annual report on the first day of the ninth month following the commencement of the tax exemption period and shall review the period beginning with the first day after the commencement of the tax exemption period. Each subsequent annual report shall review the 12-month period beginning on the first day after the close of the prior reporting period.

c. The annual reports shall review the financial records of such a recovered materials manufacturing facility or recycled materials manufacturing facility for the preceding one-year period. As a condition of receiving the sales and use tax exemption, the recovered materials manufacturing facility or recycled materials manufacturing facility shall make its financial records available to the division and the authority and shall provide such other information as may be required by the division and the authority to complete their review and assessment pursuant to this section.

d. Related to the sales and use tax exemption for recycled materials manufacturing facilities, if the division, in consultation with the authority, continues to recommend the sales and use tax exemption for recycled materials manufacturing facilities as a part of the seventh annual review, the sales and use tax exemption for recycled materials manufacturing facilities shall remain in effect for an additional year. The provision of the sales and use tax exemption for recycled materials manufacturing facilities shall be extended on a yearly basis and remain in effect until such time that the division, in consultation with the authority, recommends the termination of that sales and use tax exemption.

4. This act shall take effect immediately and shall apply to receipts from the sale or use of energy and utility service to or by a recycled materials manufacturing facility made on or after the effective date.

Approved September 16, 2021.

CHAPTER 214

AN ACT concerning reports on the status of the veterans' homes in this State during a public health emergency and through December 31, 2021, and supplementing Title 38A of the New Jersey Statutes.

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

C.38A:3-2b7 Weekly report on status of State veterans' homes.

1. a. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the Adjutant General of the Department of Military and Veterans' Affairs shall transmit a weekly report on the status of the State veterans' homes to the Commissioner of the Department of Health whenever a Public Health Emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect. The weekly report shall include:

(1) the number of residents and staff in each veterans' home, including comparisons to previous reports;

(2) any significant health risks posed to the residents and staff in each veterans' home due to the public health emergency;

(3) any changes in operating procedures in each veterans' home due to the public health emergency; and

(4) the amount of personal protective equipment available to residents and staff at each veterans' home.

b. As used in this section:

(1) "veterans' home" means the New Jersey Veterans' Memorial Home - Menlo Park, the New Jersey Veterans' Memorial Home - Vineland, and the New Jersey Veterans' Memorial Home - Paramus.

(2) "personal protective equipment" means any items commonly used to protect an individual from bacterial or viral infections, including, but not limited to, disinfecting wipes, disposable gloves, disposable gowns, face shields, N95 face masks, surgical masks, or parts thereof.

2. The Adjutant General of the Department of Military and Veterans' Affairs shall also transmit the weekly report on the status of the State veterans' homes to the Commissioner of the Department of Health required under section 1 of this act, P.L.2021, c.214 (C.38A:3-2b7), during the period beginning on the seventh day following the effective date of this act and ending on December 31, 2021.

3. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 215

AN ACT concerning regular meetings with guardians of veterans residing in Department of Military and Veterans' Affairs memorial homes and supplementing P.L.1993, c.281 (C.38A:3-2b2 et seq.).

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

C.38A:3-2b2.1 Quarterly town hall meetings with veterans' guardians.

1. The Division of Veterans' Healthcare Services in the Department of Military and Veterans' Affairs shall ensure that each veterans' memorial home shall hold quarterly town hall meetings with all veterans' guardians appointed pursuant to section 1 of P.L.1993, c.281 (C.38A:3-2b2), and persons otherwise having the veteran's power of attorney. The meetings may take place in-person or remotely using the Internet or other electronic means.

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 216

AN ACT concerning the ability of guardians to remove veterans residing in Department of Military and Veterans' Affairs memorial homes under certain emergencies and supplementing P.L.1993, c.281 (C.38A:3-2b2 et seq.).

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

C.38A:3-2b2.2 Guardian may remove veteran from memorial home.

1. Whenever a public health emergency is declared by the Governor pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), each veteran's guardian appointed pursuant to section 1 of P.L.1993, c.281 (C.38A:3-2b2), or each person otherwise having the veteran's power of attorney, shall be allowed to remove the veteran from the veterans' memorial home pursuant to procedures established under Department of Military and Veterans' Affairs rules and regulations, except the department shall allow for an initial extension of up to 30 days and one additional extension of up to 30 days. The resident veteran shall be required to continue to pay the care and maintenance

fee while on temporary furlough to hold a bed. Regular operating procedures shall resume at the conclusion of the public health emergency.

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 217

AN ACT concerning means of communication with guardians of veterans residing in Department of Military and Veterans' Affairs memorial homes and supplementing P.L.1993, c.281 (C.38A:3-2b2 et seq.).

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

C.38A:3-2b2.3 Veterans' memorial homes to communicate with guardians.

1. The Division of Veterans' Healthcare Services in the Department of Military and Veterans' Affairs shall ensure that each veterans' memorial home shall communicate updates to each veteran's guardian appointed pursuant to section 1 of P.L.1993, c.281 (C.38A:3-2b2), and each person otherwise having the veteran's power of attorney, through a minimum of two communication means, which shall include regular mail, email, text message, and voice.

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 218

AN ACT concerning certain personnel at State veterans' memorial homes and amending P.L.1987, c.444.

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

1. Section 30 of P.L.1987, c.444 (C.38A:3-2b) is amended to read as follows:

C.38A:3-2b Duties, qualifications of Division of Veterans' Healthcare Services.

30. The Division of Veterans' Healthcare Services shall supervise and operate the New Jersey Veterans' Memorial Home-Menlo Park, the New Jersey Veterans' Memorial Home-Vineland and the New Jersey Veterans' Memorial Home-Paramus.

The administrator and at least one assistant administrator at a State veterans' memorial home shall have prior experience in a clinical setting, including training or expertise in long-term care treatment.

As used in this section, "clinical" means directly pertaining to the observation, diagnosis, treatment, or rehabilitation of an individual in a hospital, long-term care facility, rehabilitation center, or other similar facility and not through research.

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 219

AN ACT concerning State veterans' memorial homes and supplementing Title 38A of the New Jersey Statues.

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

C.38A:3-2b8 Resident advocate at State veterans' memorial home.

1. a. The Division of Veterans' Healthcare Services in the Department of Military and Veterans' Affairs shall establish a position to be known as a resident advocate at each State veterans' memorial home. The resident advocate shall have a direct reporting relationship to the director of the division.

b. The resident advocate shall:

(1) act as a liaison between the State veterans' memorial home and each of the residents at the State veterans' memorial home;

(2) receive complaints from residents at the State veterans memorial home; and

(3) respond to any concerns or grievances from the residents at the State veterans' memorial home and, if appropriate, submit concerns or grievances to the State Long-Term Care Ombudsman.

c. A resident advocate who receives an oral or written complaint from a resident at a State veterans' memorial home shall log the complaint from the resident on a written or electronic form. The division shall develop, publish, and distribute the written and electronic form to be used by the resident advocate. At a minimum, the written and electronic form shall contain spaces for the following information:

(1) the name of the resident submitting the complaint;

(2) the nature of the complaint;

(3) whether the complaint is an emergency that requires an immediate response, a critical situation that requires a reasonably prompt response, or a noncritical situation that requires an appropriately timely response; and

(4) a plan of action for the complaint and an estimate time frame within which the action will be taken.

d. A resident advocate who fills out a form under subsection c. of this section shall provide one copy of the form to the resident submitting the complaint and one copy to the administrator of the State veterans' memorial home. The resident advocate shall also retain the advocate's copy for not less than one year after the complaint is resolved.

e. A State veterans' memorial home shall make every reasonable effort to make the resident advocate at that memorial home easily identifiable by posting the name and work hours of the resident advocate and shall make every reasonable effort to assure that the plan of action prepared by the resident advocate under paragraph (4) of subsection c. of this section is carried out within the time frame set forth in the plan of action.

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 220

AN ACT requiring veterans' facilities operated by the Department of Military and Veterans' Affairs to provide the New Jersey Long-Term Care Ombudsman with payroll-based journal information and supplementing P.L.1977, c.239 (C.52:27G-1 et seq.).

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

C.52:27G-5.2 Annual report of facilities' payroll-based journal.

1. a. Notwithstanding the provisions of any law, rule, or regulation to the contrary, veterans' facilities, as that term is defined in section 1 of P.L.1989, c.162 (C.38A:3-6.3), shall provide an annual report of such facilities' payroll-based journal. The Office of the State Long-Term Care Ombudsman shall establish and implement procedures for receiving, processing, and responding to such annual reports.

b. A veterans' facility shall make an annual report to the Ombudsman on or before the last day of the State fiscal year and such additional reports as the Ombudsman may from time to time request.

c. As used in this section, "payroll-based journal" means an auditable and accessible database of staffing records.

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 221

AN ACT concerning the Division of Veterans' Healthcare Services in the Department of Military and Veterans' Affairs and amending P.L.1987, c.444.

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

1. Section 31 of P.L.1987, c.444 (C.38A:3-2c) is amended to read as follows:

C.38A:3-2c Director of Division of Veterans' Healthcare Services.

31. The Division of Veterans' Healthcare Services shall be under the immediate supervision of a director who shall be qualified by training and experience to direct the work of the division, and shall have prior work experience in a clinical or long-term care facility setting. The director shall be appointed by the Adjutant General, with the approval of the Governor, and shall serve at the pleasure of the Adjutant General.

As used in this section, "clinical" means directly pertaining to the observation, diagnosis, treatment, or rehabilitation of an individual in a hospital, long-term care facility, rehabilitation center, or other similar facility and not through research; and

"long-term care facility" means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

2. This act shall take effect immediately.

Approved September 16, 2021.

CHAPTER 222

AN ACT concerning the safety of certain student-athletes and amending and supplementing P.L.2010, c.94.

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

C.18A:40-41.2a Athletic head injury safety training program revision.

1. Within 180 days of the effective date of P.L.2021, c.222 (C.18A:40-41.2a et al.), the Department of Education shall revise the athletic head injury safety training program established pursuant to section 2 of P.L.2010, c.94 (C.18A:40-41.2) to include information on the graduated, six-step "Return to Play Progression" recommendations developed by the Centers for Disease Control and Prevention. The department shall revise the athletic head injury safety program established pursuant to section 2 of P.L.2010, c.94 (C.18A:40-41.2) whenever the Centers for Disease Control and Prevention changes or otherwise updates the "Return to Play Progression" recommendations.

C.18A:40-41.3a School district revision of written policy about prevention, treatment of sports-related head injuries.

2. In the 2021-2022 school year, a school district shall revise its written policy concerning the prevention and treatment of sports-related concussions and other head injuries among student-athletes and cheerleaders established pursuant to section 3 of P.L.2010, c.94 (C.18A:40-41.3) to include the graduated, six-step "Return to Play Progression" recommendations developed by the Centers for Disease Control and Prevention. A school district shall revise its written policy established pursuant to section 3 of P.L.2010, c.94 (C.18A:40-41.3) whenever the Centers for Disease Control and Prevention changes or otherwise updates the "Return to Play Progression" recommendations.

3. Section 4 of P.L.2010, c.94 (C.18A:40-41.4) is amended to read as follows:

C.18A:40-41.4 Removal of student-athlete from competition, practice; return.

4. A student who participates in an interscholastic sports program, intramural sports program, or cheerleading program and who sustains or is suspected of having sustained a concussion or other head injury while engaged in a competition or practice shall be immediately removed from the competition or practice. A student-athlete or cheerleader who is removed from competition or practice shall not participate in further sports or cheerleading activity until:

a. the student-athlete or cheerleader is evaluated by a physician or other licensed healthcare provider trained in the evaluation and management of concussions, and receives written clearance from a physician trained in the evaluation and management of concussions to return to competition or practice; and

b. the student-athlete or cheerleader returns to regular school activities and is no longer experiencing symptoms of the injury when conducting those activities.

The return of a student-athlete or cheerleader to competition or practice shall be in accordance with the graduated, six-step "Return to Play Progression" recommendations and any subsequent changes or other updates to those recommendations as developed by the Centers for Disease Control and Prevention.

4. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 223

AN ACT concerning institutional financial aid and supplementing chapter 62 of Title 18A of the New Jersey Statutes.

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

C.18A:62-65 Definitions relative to institutional financial aid.

1. As used in this act:

"Cost of attendance" means cost of attendance as defined pursuant to 20 U.S.C. s.1087ll.

"Expected family contribution" means expected family contribution as determined pursuant to 20 U.S.C. s.1087nn.

"Financial need" means cost of attendance minus expected family contribution.

"Institutional financial aid" means need-based and merit-based grants, scholarships, tuition waivers, and all other forms of financial assistance provided by a public institution of higher education that are not loans or work-study programs.

"Private scholarships" means scholarships awarded by businesses, private foundations, nonprofit organizations, and service groups. Private scholarships shall not include awards funded by a private organization which is affiliated with a public institution of higher education and requests the institution's assistance in selecting the recipients of scholarships.

C.18A:62-66 Reduction of student's institutional financial aid; reasons.

2. a. A public institution of higher education may reduce a student's institutional financial aid as a result of the awarding of private scholarships to the student only under the circumstances enumerated in subsections b. and c. of this section.

b. If a student's total financial aid from all sources exceeds the student's financial need, a public institution of higher education may reduce the student's institutional financial aid until the student's total financial aid no longer exceeds the student's financial need.

c. In addition to the reduction authorized pursuant to subsection b. of this section, a public institution of higher education may reduce a student's institutional financial aid if the institution receives approval from the organization that awarded the private scholarship that caused the reduction authorized pursuant to subsection b. of this section.

d. A public institution of higher education may reduce a student athlete's institutional financial aid in order to comply with the individual or team financial aid restrictions of any athletic association, conference, or other group or organization with authority over intercollegiate athletics including, but not limited to, the National Collegiate Athletic Association.

3. This act shall take effect immediately and shall first apply to the first full academic year following the date of enactment.

Approved September 24, 2021.

CHAPTER 224

AN ACT concerning teacher certification and supplementing chapter 26 of Title 18A of the New Jersey Statutes.

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

C.18A:26-2b Definitions relative to teacher certification.

1. As used in this act:

"Limited certificate of eligibility" means a certificate issued by the State Board of Examiners to candidates who meet the criteria established pursuant to section 4 of this act.

"Limited certificate of eligibility with advanced standing" means a certificate issued by the State Board of Examiners to candidates who meet the criteria established pursuant to section 3 of this act and complete a State-approved college professional educator preparation program.

C.18A:26-2c Limited certificate of eligibility pilot program.

2. There is established in the Department of Education a five-year pilot program under which the State Board of Education shall authorize the issuance of a limited certificate of eligibility with advanced standing pursuant to section 3 of this act and a limited certificate of eligibility pursuant to section 4 of this act.

C.18A:26-2d Issuance of limited certificate of eligibility, advanced standing.

3. a. For the purposes of the pilot program established pursuant to section 2 of this act, no later than three months following the date of enactment, the State Board of Education shall authorize the issuance of a limited certificate of eligibility with advanced standing to a teacher candidate who meets all other eligibility requirements for a certificate of eligibility with advanced standing, except any one of the following:

(1) the minimum grade point average requirement and all other alternative grade point average requirements or exceptions; or

(2) the requirement to achieve a minimum passing score on an appropriate State test of subject matter knowledge and all other alternative requirements or exceptions to achieving a passing score on an appropriate State test of subject matter knowledge.

b. The limited certificate of eligibility with advanced standing authorized pursuant to subsection a. of this section shall only be used for employment in a school district, charter school, or renaissance school

approved to hire individuals who hold the certificate pursuant to section 5 of this act.

C.18A:26-2e Issuance of limited certificate of eligibility.

4. a. For the purposes of the pilot program established pursuant to section 2 of this act, no later than three months following the date of enactment, the State Board of Education shall authorize the issuance of a limited certificate of eligibility to a teacher candidate who meets all other eligibility requirements to receive a certificate of eligibility, except any one of the following:

(1) the requirement to complete a minimum number of subject area course credits and all other related alternative requirements or exceptions, except that a candidate applying for a limited certificate of eligibility shall hold a bachelor's degree at a minimum;

(2) the minimum grade point average requirement and all other alternative grade point average requirements or exceptions;

(3) the requirement to achieve a minimum score on a Commissioner of Education-approved test of basic reading, writing, and mathematical skills and all other alternative basic skills requirements or exceptions; or

(4) the requirement to achieve a minimum passing score on an appropriate State test of subject matter knowledge and all other alternative requirements or exceptions to achieving a passing score on an appropriate State test of subject matter knowledge.

b. The limited certificate of eligibility authorized pursuant to subsection a. of this section shall only be used for employment in a school district, charter school, or renaissance school approved to hire individuals who hold the certificate pursuant to section 5 of this act.

C.18A:26-2f Approval of schools hiring individuals issued limited certificates of eligibility; qualifications.

5. a. A school district, charter school, or renaissance school seeking to hire individuals who are issued limited certificates of eligibility with advanced standing or limited certificates of eligibility under the pilot program established pursuant to section 2 of this act shall be approved by the Commissioner of Education to do so. A school district, charter school, or renaissance school shall apply to the commissioner in a manner and form to be prescribed by the commissioner. To be considered for approval to hire individuals who hold limited certificates of eligibility with advanced standing or limited certificates of eligibility, an applicant shall demonstrate a sufficient capability to provide support to new teachers and:

(1) a demographic disparity between the district's or school's student population and teachers; or

(2) a shortage of bilingual education teachers; or

(3) a critical need to fill teacher vacancies or a hardship caused by teacher vacancies.

b. During the first year of implementation of the pilot program established pursuant to section 2 of this act, the commissioner shall approve no less than 10 school districts, charter schools, or renaissance schools to hire individuals who hold limited certificates of eligibility with advanced standing or limited certificates of eligibility.

c. A school district, charter school, or renaissance school approved to hire individuals who hold limited certificates of eligibility with advanced standing or limited certificates of eligibility shall only hire up to 10 percent of its total teachers pursuant to this act.

d. A school district, charter school, or renaissance school approved to hire individuals who hold limited certificates of eligibility with advanced standing or limited certificates of eligibility shall, during the period of the pilot program established pursuant to section 2 of this act, annually submit a report to the commissioner evaluating the impact of hiring such individuals. The report shall contain the following information:

(1) the number of teachers who were issued a limited certificate of eligibility with advanced standing or a limited certificate of eligibility;

(2) the subject areas in which the individuals teach and the courses they teach;

(3) how the hiring of individuals who were issued the limited certificates has impacted the district's or school's demographic disparity between its student population and teachers as well as the effect the hiring of those individuals has had on the district's or school's ability to fill teacher vacancies;

(4) student achievement data for students taught by the teachers who were issued the limited certificates, as determined by the commissioner; and

(5) any other information the commissioner deems necessary.

e. The commissioner shall, during the period of the pilot program established pursuant to section 2 of this act, annually submit to the State Board of Education a report summarizing the information submitted by school districts, charter schools, and renaissance schools pursuant to subsection d. of this section.

C.18A:26-2g Receipt of standard instructional certificate, requirements.

6. Notwithstanding the provisions of any law, rule, or regulation related to the evaluation of a provisional teacher for a standard instructional certificate to

the contrary, an individual who is issued a limited certificate of eligibility with advanced standing pursuant to section 3 of this act or a limited certificate of eligibility pursuant to section 4 of this act, is hired by a school district, charter school, or renaissance school approved to hire such an individual pursuant to section 5 of this act, and is teaching in the district or school under a provisional instructional certificate, shall earn a standard instructional certificate upon receipt of at least two summative evaluation ratings of effective or highly effective earned within three consecutive years of teaching. This requirement shall be in addition to all other requirements for a standard instructional certificate established pursuant to State Board of Education regulations.

C.18A:26-2h Rules, regulations.

7. The State Board of Education shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 225

A SUPPLEMENT to the Fiscal Year 2022 appropriations act, P.L.2021, c.133.

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

1. In addition to the amounts appropriated under P.L.2021, c.133, the annual appropriations act for Fiscal Year 2022, there is appropriated the following sum for the purposes specified:

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
43 Science and Technical Programs
GRANTS-IN-AID

06-4850 Water Monitoring	$10,000,000
Total Grants-In-Aid Appropriation,	$10,000,000

Stormwater Management Grants

Grants-In-Aid:

06	Stormwater Management Grants	($10,000,000)

The amounts hereinabove appropriated shall be used for providing grants to assist qualified entities to pay for the management and maintenance of lakes for recreation and conservation purposes pursuant to section 2 of this act.

2. a. The amounts appropriated in section 1 of this act shall be used for providing grants to assist qualified entities to pay for the management and maintenance of lakes for recreation and conservation purposes pursuant to the provisions of this section.

b. The department shall establish a program for the purpose of providing grants with the moneys allocated pursuant to section 1 of this act to assist qualified entities to pay certain costs associated with the management and maintenance of lakes for recreation and conservation purposes.

c. (1) In establishing the program required pursuant to this section, the department shall develop criteria for the evaluation and ranking of applications to provide priority to projects:

(a) submitted by qualified entities responsible for a lake with public access; and

(b) to improve water quality and increase recreational access and use of lakes, including projects to control nutrient levels in lakes in order to prevent future harmful algal blooms.

(2) A grant issued pursuant to this section may be used for stormwater and nonpoint source pollution management activities that would, as determined by the department, directly enhance, improve, or protect the use of a lake for recreation and conservation purposes.

(3) The Commissioner of Environmental Protection shall develop an application by which a qualified entity may apply for a grant pursuant to this section, and criteria by which to rank the applications received by the department. The commissioner shall provide notice of the availability of funding for this program and make the application available on the department's Internet website.

d. As used in this section:

"Greenwood Lake Commission" means the commission created pursuant to section 3 of P.L.1999, c.402 (C.32:20A-3).

"Lake Hopatcong Commission" means the commission created pursuant to section 3 of P.L.2000, c.175 (C.54:4B-3).

"Qualified entity" means: the Greenwood Lake Commission; the Lake Hopatcong Commission; a local government unit; an entity established as a joint meeting pursuant to law or an entity established pursuant to ordinance

by the municipalities surrounding a publicly-accessible lake for the management of the lake, including, but not limited to, the Deal Lake Commission or the Lake Topanemus Park Commission; or a nonprofit organization that is exempt from federal taxation pursuant to 26 U.S.C. s.501 (c)(3) and whose mission is the management of a publicly-accessible lake.

"Recreation and conservation purposes" means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

3. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 226

AN ACT concerning enrollment in the Prosecutors Part of the Public Employees' Retirement System and amending P.L.2001, c.366.

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

1. Section 2 of P.L.2001, c.366 (C.43:15A-156) is amended to read as follows:

C.43:15A-156 Prosecutors, membership in Prosecutors Part, PERS credit.

2. a. Notwithstanding the provisions of any other law, prosecutors shall be members of the Prosecutors Part, established pursuant to P.L.2001, c.366 (C.43:15A-155 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.366. Membership in the retirement system shall be a condition of employment for service as a prosecutor. Any service credit which has been established in the Public Employees' Retirement System prior to the effective date of this act, P.L.2021, c.226, shall be established in the Prosecutors Part without further assessment of cost to the prosecutor; provided, however, any service credit which has been established in the Public Employees' Retirement System and the Judicial Retirement System not deferred pursuant to section 1 of P.L.2019, c.287 (C.43:6A-11.1) by a member of the retirement system in any position prior to service as a county prosecutor, nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, shall be established in the

Prosecutors Part without further assessment of cost to the prosecutor. Any county prosecutor or acting county prosecutor enrolled in the Defined Contribution Retirement Program as a county prosecutor or acting county prosecutor shall be eligible for service credit in the Prosecutors Part, except that the county prosecutor or acting county prosecutor shall first pay the amount equivalent to that amount contributed pursuant to section 3 of P.L.2007, c.92 (C.43:15C-3) during each fiscal year of membership in the Defined Contribution Retirement Program to be credited.

b. All outstanding obligations, such as loans, purchases and other arrearage, shall be satisfied by a prosecutor as previously scheduled for payment to the Public Employees' Retirement System.

2. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 227

AN ACT concerning tourism and breweries in the State, supplementing P.L.1977, c.225, and amending R.S.33:1-18.

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

C.33:1-102 "Brewery trail", identification, definition.

1. In addition to the powers and duties of the division as provided in section 9 of P.L.1977, c.225 (C.34:1A-53), the division, in conjunction with the Director of the Division of Alcoholic Beverage Control and any local government official or entity, shall identify a series of breweries to be part of a brewery trail. No fewer than three brewery trails shall be identified for the purposes of this program and the division shall ensure all holders of a limited brewery license and restricted brewery license in current operation in the State is included. In identifying specific breweries to be included on a specific brewery trail, special consideration shall be given to breweries that are in close geographic proximity to other breweries or thematically linked by surrounding arts, cultural, historical, entertainment, or other tourism destinations or exhibits of interest to tourists.

As used in this section, "brewery trail" means a series of limited and restricted license breweries identified by the division, which may be linked

by geographic proximity and alignment, thematic consistency, historical consistency, brewing process, and resulting product.

C.33:1-103 Limited brewery license, restricted brewery license; Internet website information.

2. a. The division shall develop and maintain an Internet website providing information concerning every holder of a limited brewery license or restricted brewery license pursuant to R.S.33:1-10. The information on the website shall be searchable and available as a list and as an interactive map, and shall:

(1) specify the location of each brewery and provide driving directions from the north, south, east, and west as well as directions by public transit where applicable;

(2) provide information about whether the brewery offers tours of its facilities, the frequency of tours, and hours during which tours are conducted;

(3) display photographs of the brewery;

(4) state the brewery's first year of operation or licensure pursuant to R.S.33:1-10;

(5) provide a description of the beverages brewed on site, including but not limited to the style, color, flavor, ingredients, production method, and the alcohol-by-volume (ABV);

(6) inform visitors of whether the brewery is part of a specific brewery trail developed pursuant to section 1 of P.L.2021, c.227 (C.33:1-102); and

(7) provide contact information for each brewery, including each brewery's telephone number and Internet website address.

b. The division shall develop and publish on its website vacation itineraries based on specific brewery trails developed pursuant to section 1 of P.L.2021, c.227 (C.33:1-102), which shall identify for visitors surrounding attractions, restaurants, lodging, and other exhibits or places of entertainment in close proximity to the breweries on the brewery trail. The division may solicit information from the holders of limited brewery licenses and restricted brewery licenses in the development of vacation itineraries.

c. In addition to publishing the information as required in subsection a. and b. of this section, the division may distribute the information by any other method it deems appropriate.

d. The director shall ensure that the Internet website is updated whenever a new brewery is granted a limited brewery license or restricted brewery license pursuant to R.S.33:1-10. The division shall accept information, or changes to the website from the Director of the Division of Alcoholic Beverage Control, breweries, the New Jersey Brewers Association or the successor organization thereof, the Brewers Guild of New Jersey or the successor organization thereof, and entities that compile data on the

State's breweries through an electronic submission form made available by the division on its Internet website.

3. R.S.33:1-18 is amended to read as follows:

Director to administer issuance of certain licenses.

33:1-18. It shall be the duty of the director to administer the issuance of manufacturers', wholesalers', plenary retail transit, sporting facility, vendor, transportation and public warehouse licenses, in accordance with this chapter. Upon issuing a limited brewery license or restricted brewery license pursuant to R.S.33:1-10, the director shall notify the Director of the Division of Travel and Tourism of the name and address of the new licensee within 15 calendar days after issuance.

4. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 228

AN ACT concerning employment of injured workers who have reached maximum medical improvement and supplementing chapter 15 of Title 34 of the Revised Statutes (C.34:15-1 et seq.).

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

C.34:15-147 Offering of hiring preference to employee unable to return to previous position due to returning from a work-related injury.

1. a. Following a work-related injury, an employer shall provide a hiring preference to an employee who has reached maximum medical improvement and is unable to return to the position at which the employee was previously employed for any existing, unfilled position offered by the employer for which the employee can perform the essential duties of the position.

b. For purposes of this section, "employer" means an employer who employs at least 50 persons, but shall not include a contractor as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50).

c. Nothing in this section requires an employer to create a new position to accommodate an employee who cannot return to the employee's former position following a work-related injury despite reaching maximum medical

improvement or requires an employer to remove another employee from an existing and filled position that would be suitable for the injured employee.

d. This act shall not apply to athletes employed by professional sports teams.

e. Nothing in this section shall be construed to impair or affect any right of an individual with a disability to a reasonable accommodation under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

2. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 229

AN ACT concerning psychological services and supplementing Title 45 of the Revised Statutes.

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

C.45:14B-49 "Psychology Interjurisdictional Compact Act".

1. The State of New Jersey enacts and enters into the "Psychology Interjurisdictional Compact Act" with all other jurisdictions that legally join in the compact in the form substantially as follows:

I. Purpose.

Whereas, states license psychologists, in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this compact is intended to regulate the day to day practice of telepsychology, which is the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state;

Whereas, this compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this compact does not apply when a psychologist is licensed in both the home and receiving states; and

Whereas, this compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this compact is designed to achieve the following purposes and objectives: increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state in which the psychologist is not licensed to practice psychology; enhance the states' ability to protect the public's health and safety, especially client and patient safety; encourage the cooperation of compact states in the areas of psychology licensure and regulation; facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history; promote compliance with the laws governing psychological practice in each compact state; and invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

II. Definitions.

"Adverse action" means any action taken by a state psychology regulatory authority that finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

"Association of State and Provincial Psychology Boards (ASPPB)" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

"Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this compact, in another compact state.

"Bylaws" means those bylaws established by the psychology interjurisdictional compact commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.

"Client or patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, or consulting services.

"Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to Article X.

"Compact state" means a state, the District of Columbia, or United States territory that has enacted this compact legislation and that has not withdrawn pursuant to subsection c. of Article XIII or been terminated pursuant to subsection b. of Article XII.

"Coordinated licensure information system" or "coordinated database" means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

"Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes, or both.

"Day" means any part of a day in which psychological work is performed.

"Distant state" means the compact state where a psychologist is physically present, not through the use of telecommunications technologies, to provide temporary in-person, face-to-face psychological services.

"E.passport" means a certificate issued by the ASPPB that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

"Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

"Home state" means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

"Identity history summary" means a summary of information retained by the Federal Bureau of Investigation (FBI), or other designee with similar

authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

"In-person, face-to-face" means interactions in which the psychologist and the client or patient are in the same physical space. The term shall not include interactions that may occur through the use of telecommunication technologies.

"Interjurisdictional Practice Certificate" or "IPC" means a certificate issued by the ASPPB that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily, and verification of one's qualifications for such practice.

"License" means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

"Non-compact state" means any state that is not at the time a compact state.

"Psychologist" means an individual licensed for the independent practice of psychology.

"Psychology Interjurisdictional Compact Commission" or "Commission" means the national administration of which all compact states are members.

"Receiving state" means a compact state where the client or patient is physically located when the telepsychological services are delivered.

"Rule" means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI of the compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal or suspension of an existing rule.

"Significant investigatory information" means investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond, or both.

"State" means a state, commonwealth, territory, or possession of the United States and the District of Columbia.

"State psychology regulatory authority" means the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

"Telepsychology" means the provision of psychological services using telecommunication technologies.

"Temporary authorization to practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this compact, in another compact state.

"Temporary in-person, face-to-face practice" means where a psychologist is physically present, not through the use of telecommunications technologies, in the distant state to provide for the practice of psychology for 30 days within a calendar year and based on notification to the distant state.

III. Home State Licensure.

a. The home state shall be a compact state where a psychologist is licensed to practice psychology.

b. A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

c. Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this compact.

d. Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of this compact.

e. A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state: currently requires the psychologist to hold an active e.passport; has a mechanism in place for receiving and investigating complaints about licensed individuals; notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual; requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the FBI, or other

designee with similar authority, no later than 10 years after activation of the compact; and complies with the bylaws and rules of the commission.

f. A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state: currently requires the psychologist to hold an active IPC; has a mechanism in place for receiving and investigating complaints about licensed individuals; notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual; requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, no later than ten years after activation of the compact; and complies with the bylaws and rules of the commission.

IV. Compact Privilege to Practice Telepsychology.

a. Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice telepsychology in other compact states in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

b. To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this compact, a psychologist licensed to practice in a compact state shall:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(a) regionally accredited by an accrediting body recognized by the federal Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(b) a foreign college or university deemed to be equivalent to by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service;

(2) Hold a graduate degree in psychology that meets the following criteria: the program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such a program shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists; the psychology program shall stand as a recognizable, coherent, organizational entity within the institution; there shall be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines; the program shall

consist of an integrated, organized sequence of study; there shall be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities; the designated director of the program shall be a psychologist and a member of the core faculty; the program shall have an identifiable body of students who are matriculated in that program for a degree; the program shall include supervised practicum, internship, or field training appropriate to the practice of psychology; the curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; the program includes an acceptable residency as defined by the rules of the commission;

(3) Possess a current, full and unrestricted license to practice psychology in a home state that is a compact state; have no history of adverse action that violate the rules of the commission; have no criminal record history reported on an identity history summary that violates the rules of the commission; possess a current, active e.passport;

(4) Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and

(5) Provide a release of information to allow for primary source verification in a manner specified by the commission; and meet other criteria as defined by the rules of the commission.

c. The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

d. A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the commission.

e. If a psychologist's license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended or otherwise limited, the e.passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

V. Compact Temporary Authorization to Practice.

a. Compact States shall also recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice temporarily in other distant states in which the psychologist is not licensed, as provided in the compact.

b. To exercise the temporary authorization to practice under the terms and provisions of this compact, a psychologist licensed to practice in a compact state shall:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(a) Regionally accredited by an accrediting body recognized by the federal Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(b) a foreign college or university deemed to be equivalent by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service;

(2) Hold a graduate degree in psychology that meets the following criteria: the program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program and shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists; the psychology program shall stand as a recognizable, coherent, organizational entity within the institution; there shall be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines; the program shall consist of an integrated, organized sequence of study; there shall be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities; the designated director of the program shall be a psychologist and a member of the core faculty; the program shall have an identifiable body of students who are matriculated in that program for a degree; the program shall include supervised practicum, internship, or field training appropriate to the practice of psychology; the curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree; and the program includes an acceptable residency as defined by the rules of the commission;

(3) Possess a current, full and unrestricted license to practice psychology in a home state that is a compact state; no history of adverse action that

violate the rules of the commission; and have no criminal record history that violates the rules of the commission;

(4) Possess a current, active IPC;

(5) Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(6) Meet other criteria as defined by the rules of the commission.

c. A psychologist practicing into a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

d. A psychologist practicing into a distant state under the temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the commission.

e. If a psychologist's license in any home state, another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

VI. Conditions of Telepsychology Practice in a Receiving State.

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances: the psychologist initiates a client or patient contact in a home state via telecommunications technologies with a client or patient in a receiving state; and other conditions regarding telepsychology as determined by rules promulgated by the commission.

VII. Adverse Actions

a. A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall have the power to take adverse action on a psychologist's temporary authorization to practice within that distant State.

b. A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

c. If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e.passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked. All home state disciplinary orders that impose adverse action shall be reported to the commission in accordance with the rules promulgated by the commission. A compact state shall report adverse actions in accordance with the rules of the commission. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission. Other actions may be imposed as determined by the rules promulgated by the commission.

d. A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee that occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

e. A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization practice that occurred in that distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

f. Nothing in this compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the compact state's law. Compact states shall require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

g. No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection c. of this section.

VIII. Additional Authorities Invested in a Compact State's Psychology.

In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to: issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence from another compact state, shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses, evidence, or both are located; and issue cease and desist orders and injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both. During the course of any investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his or her home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal, and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

IX. Coordinated Licensure Information System.

a. The commission shall provide for the development and maintenance of a coordinated licensure database and reporting system containing licensure and disciplinary action information on all psychologists to whom this compact is applicable in all compact states as defined by the rules of the commission.

b. Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission, including: identifying information; licensure data; significant investigatory information; adverse actions against a psychologist's license; an indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked; non-confidential information related to alternative program participation information; any denial of application for licensure, and the reasons for such denial; and other information that may facilitate the administration of this compact, as determined by the rules of the commission.

c. The coordinated database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

d. Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

e. Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

X. Establishment of the Psychology Interjurisdictional Compact Commission.

a. The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission. The commission is a body politic and an instrumentality of the compact States. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

b. (1) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. The delegate shall be empowered to act on behalf of the compact state. The delegate shall be either the executive director, executive secretary or similar executive; current member of the state psychology regulatory authority of a compact state; or designee empowered with the appropriate delegate authority to act on behalf of the

compact state. Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compact state in which the vacancy exists. Each commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI. The commission may convene in a closed, non-public meeting if the commission shall discuss: non-compliance of a compact state with its obligations under the compact; the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures; current, threatened, or reasonably anticipated litigation against the commission; negotiation of contracts for the purchase or sale of goods, services or real estate; accusation against any person of a crime or formally censuring any person; disclosure of trade secrets or commercial or financial information that is privileged or confidential; disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; disclosure of investigatory records compiled for law enforcement purposes; disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or matters specifically exempted from disclosure by federal and state statute.

(2) If a meeting, or portion of a meeting, is closed pursuant to paragraph (1) of this subsection, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

c. The commission shall, by a majority vote of the commissioners, prescribe bylaws, rules, or both to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to: establishing the fiscal year of the commission; providing reasonable standards and procedures for the establishment and meetings of other committees and for governing any general or specific delegation of any authority or function of the commission; providing reasonable procedures for calling and conducting meetings of the commission; establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission; providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission; promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and reserving of all of its debts and obligations; and ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets.

The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each commissioner with no proxy votes allowed.

Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission. The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states.

The commission shall maintain its financial records in accordance with the bylaws, and shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

d. The commission shall have the following powers:

(1) the authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact, which rule shall have the force and effect of law and shall be binding in all compact states;

(2) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept or contract for services of personnel, including, but not limited to, employees of a compact state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any real, personal, or mixed property, provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any real, personal, or mixed property;

(9) to establish a budget and make expenditures;

(10) to borrow money;

(11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) to provide and receive information from, and to cooperate with, law enforcement agencies;

(13) to adopt and use an official seal; and

(14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of psychology licensure, temporary in-person face-to-face practice, and telepsychology practice.

e. The elected officers shall serve as the executive board, which shall have the power to act on behalf of the commission according to the terms of this compact.

(1) The executive board shall comprise six members: five voting members who are elected from the current membership of the commission by the commission and one ex-officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities. The ex-officio member shall have served as staff or member on a state psychology regulatory authority and will be selected by its

respective organization. The commission may remove any member of the executive board as provided in bylaws. The executive board shall meet at least annually.

(2) The executive board shall have the following duties and responsibilities: recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact states such as annual dues, and any other applicable fees; ensure compact administration services are appropriately provided, contractual or otherwise; prepare and recommend the budget; maintain financial records on behalf of the commission; monitor compact compliance of member states and provide compliance reports to the commission; establish additional committees as necessary; and other duties as provided in rules or bylaws.

f. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials and services. The commission may levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which assessment shall be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all compact states. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the compact states, except by and with the authority of the compact state. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in, and become part of, the annual report of the commission.

g. The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities; provided that nothing in this subsection shall be construed to protect any such person from suit

or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

XI. Rulemaking.

a. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

b. If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compact State.

c. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

d. Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking: on the website of the commission; and on the website of each compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

e. The notice of proposed rulemaking shall include: the proposed time, date, and location of the meeting in which the rule will be considered and voted

upon; the text of the proposed rule or amendment and the reason for the proposed rule; a request for comments on the proposed rule from any interested person; and the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

f. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which submitted materials shall be made available to the public.

g. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by: at least 25 persons who submit comments independently of each other; a governmental subdivision or agency; or a duly appointed person in an association that has at least 25 members.

h. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

j. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

k. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

l. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as

soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that shall be adopted immediately in order to: meet an imminent threat to public health, safety, or welfare; prevent a loss of commission or compact state funds; meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or protect public health and safety.

m. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

XII. Oversight, Dispute Resolution, and Enforcement

a. The executive, legislative, and judicial branches of state government in each compact state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the commission. The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

b. If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall: provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the commission; and provide remedial training and specific technical assistance regarding the default. If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the

compact states, and all rights, privileges, and benefits conferred by this compact shall be terminated on the effective date of termination. A remedy of the default shall not relieve the offending state of obligations or liabilities incurred during the period of default. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the compact states. A compact state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination. The commission shall not bear any costs incurred by the state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the state of Georgia or the federal district where the compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

c. Upon request by a compact state, the commission shall attempt to resolve disputes related to the compact that arise among compact states and between compact and non-compact states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

d. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact. By majority vote, the commission may initiate legal action in the United States District Court for the state of Georgia or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

XIII. Date of Implementation of the Psychology Interjurisdictional Compact Commission and Associated Rules, Withdrawal, and Amendments.

a. The compact shall come into effect on the date on which the compact is enacted into law in the seventh compact state. The provisions that become effective at that time shall be limited to the powers granted to the commission

relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

b. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

c. Any compact state may withdraw from this compact by enacting a statute repealing the same. A compact state's withdrawal shall not take effect until six months after enactment of the repealing statute. Withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

d. Nothing contained in this compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a non-compact state that does not conflict with the provisions of this compact.

e. This compact may be amended by the compact states. No amendment to this compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

XIV. Construction and Severability.

a. This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining compact states. When the Governor executes the compact on behalf of this State and when the compact is ratified by one or more other states, then the compact shall become operative and effective between this State and such other state or states. The Governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents between this State and any other state ratifying the compact.

b. The compact administrator who represents this State, as provided in the compact, shall not be entitled to any additional compensation for the administrator's duties and responsibilities as compact administrator but shall be entitled to reimbursement for reasonable expenses actually incurred in connection with the administrator's duties and responsibilities as compact administrator in the same manner as for expenses incurred in connection with other duties and responsibilities of office or employment.

2. This act shall take effect on the 60th day after the date of enactment.

Approved September 24, 2021.

CHAPTER 230

AN ACT concerning appeals of electronic meetings held under the "Municipal Land Use Law" during the emergency declared in response to the COVID-19 pandemic.

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

1. Notwithstanding any provision of law, rule, or regulation to the contrary, a decision of a municipal agency made at, or based, in whole or in part, on a meeting or proceeding held by means of communication or other electronic equipment such that some or all participants are not in the same physical location shall not be appealable on grounds attributable to convening the meeting or proceeding by means of communication or other electronic equipment, including but not limited to, lack of a physical quorum, lack of proper notice, conduct of the meeting or proceeding, or lack of a reasonable opportunity to be heard or otherwise participate in the meeting or proceeding, provided that notice of the meeting or proceeding, and the conduct of the meeting or proceeding, is consistent with this section, and with guidance documents issued by, or rules or regulation promulgated by, the Department of Community Affairs and published on the department's Internet website on the date such notice was given. All notices required by the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) shall include directions for remote access by the public if provided to the applicant by the municipal agency. The applicant shall be entitled to rely upon such directions for remote access provided by the municipal agency and the applicant's reliance on such directions shall not invalidate any meeting or proceeding or any decision of a municipal agency made at, or based, in whole or in part, on such meeting or proceeding.

2. This act shall take effect immediately and shall be applicable to a meeting or proceeding conducted by a municipal agency on or after March 9, 2020 and during a period declared, in response to the COVID-19

pandemic, pursuant to the laws of this State as a state of emergency, public health emergency, or both, or for a reasonable period of time following cessation of a declared emergency, if so provided by executive order.

Approved September 24, 2021.

CHAPTER 231

AN ACT protecting a homeowner in foreclosure from excessively low intervening offer and amending P.L.1954, c.186.

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

1. Section 1 of P.L.1954, c.186 (C.54:5-89.1) is amended to read as follows:

C.54:5-89.1 Effect of judgment on unrecorded interests; application by person recording interest to be made party

1. In any action to foreclose the right of redemption in any property sold for unpaid taxes or other municipal liens, all persons claiming an interest in or an encumbrance or lien upon such property, by or through any conveyance, mortgage, assignment, lien or any instrument which, by any provision of law, could be recorded, registered, entered or filed in any public office in this State, and which shall not be so recorded, registered, entered or filed at the time of the filing of the complaint in such action shall be bound by the proceedings in the action so far as such property is concerned, in the same manner as if the person had been made a party to and appeared in such action, and the judgment therein had been made against the person as one of the defendants therein; but such person, upon causing such conveyance, mortgage, assignment, lien, claim or other instrument to be recorded, registered, entered or filed as provided by law, may apply to be made a party to such action. No person, however, shall be admitted as a party to such action, nor shall the person have the right to redeem the lands from the tax sale whenever it shall appear that the person has acquired such interest in the lands for less than fair market value after the filing of the complaint, except where such transferee is related by blood or marriage to, or who, because of other close or personal relationship with the transferor, would in normal course be a party to an instrument for little or no consideration, or where such party acquired his interest at a judicial sale.

2. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 232

AN ACT concerning Garden State Growth Zones and amending P.L.2013, c.161.

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

1. Section 23 of P.L.2013, c.161 (C.52:27D-489r) is amended to read as follows:

C.52:27D-489r Definitions relative to the "New Jersey Economic Opportunity Act of 2013."

23. As used in section 24 of P.L.2013, c.161 (C.52:27D-489s):

"Aviation district" means all areas within the boundaries of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport" and the Federal Aviation Administration William J. Hughes Technical Center.

"Director" means the Director of the Division of Taxation.

"Division of Codes and Standards" means the Division of Codes and Standards located in the Department of Community Affairs.

"Eligible person" means any individual purchasing or renting an eligible residential residence within a growth zone after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). For the purpose of this definition, an eligible person is limited to those who establish a permanent residency at the eligible residential residence, are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and are current with all State and local tax obligations.

"Eligible property" means any residential, commercial, industrial, or other business property, located in a Garden State Growth Zone, that receives a Certificate of Occupancy or is transferred in a legal sale on or after July 1, 2013. Purchasers of newly constructed homes are not the applicant.

"Exemption" means that portion of the assessor's full and true value of any improvement, conversion, alteration, redevelopment, rehabilitation, or construction not regarded as increasing the taxable value of a property

pursuant to P.L.2013, c.161 (C.52:27D-489p et al.) for the purposes of encouraging the construction, conversion, improvement, and redevelopment of real property conducted by eligible businesses or residents within a growth zone pursuant to P.L.2013, c.161 (C.52:27D-489p et al.).

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority; an aviation district; or a government-restricted municipality.

"Garden State Growth Zone Development Entity" means a private corporation incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits of the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to the total project cost, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

"Government-restricted municipality" means a municipality in this State that has:

(1) a municipal revitalization index distress score of at least 75;

(2) met the criteria for designation as an urban aid municipality in the 2019 State fiscal year; and

(3) on the effective date of P.L.2021, c.232 is either:

(a) subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or

(b) restricted in its ability to levy property taxes on property in that municipality as a result of:

(i) the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality, or

(ii) the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which land area is dedicated as a national natural landmark.

"Improvements" means any repair, construction, or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.

2. Section 24 of P.L.2013, c.161 (C.52:27D-489s) is amended to read as follows:

C.52:27D-489s Authority of development entity.

24. a. A Garden State Growth Zone Development Entity is authorized to undertake clearance, re-planning, development, or redevelopment of property within a Garden State Growth Zone.

b. (1) Notwithstanding any other law to the contrary, every Garden State Growth Zone Development Entity that owns real property, or leases real property for a period of not less than 30 years, within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 20 years from receiving a final Certificate of Occupancy, provided however, that a municipality located within the Garden State Growth Zone shall, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). The exemption allowed by this paragraph shall be dependent upon: (a) the owner, or lessee, of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (b) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.) in the case of real property that is located in a government-restricted municipality, and within 10 years of the date

of enactment of P.L.2013, c.161 (C.52:27D-489p et al.) in the case of real property that is not located in a government-restricted municipality.

(2) If a government-restricted municipality located within a Garden State Growth Zone did not opt-in to the program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.) pursuant to paragraph (1) of this subsection, then the government-restricted municipality located within a Garden State Growth Zone may, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L.2021, c.232. A Garden State Growth Zone Development Entity that owns real property, or leases real property for a period of not less than 30 years, within a government-restricted municipality that adopts an ordinance to opt-in pursuant to this paragraph, and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 30 years from receiving a final Certificate of Occupancy. The exemption allowed by this paragraph shall be dependent upon: (a) the owner, or lessee, of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (b) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.).

(3) Notwithstanding any other law to the contrary, the municipal assessor of a government-restricted municipality may extend the exemption period authorized pursuant to paragraph (1) of this subsection so that such exemption is granted for a period of 30 years from receiving a final Certificate of Occupancy. The extension allowed by this paragraph shall be dependent upon: (a) the government-restricted municipality having adopted an ordinance to opt-in to the program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.) pursuant to paragraph (1) of this subsection; (b) the municipal assessor authorizing an extension of the existing exemption to a period of 30 years as provided for in this paragraph; and (c) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 15 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.). Upon authorization of an extension by the municipal assessor pursuant to this paragraph, the exemption schedule set forth in subsection d. of this section shall apply.

(4) For purposes of this section, a lessee of real property shall include a Garden State Growth Zone Development Entity that is a lessee that is subject

to a statutory obligation to make a payment in lieu of taxes on the improvements equal to the taxes on real and personal property.

c. The exemption granted by paragraph (1) of subsection b. of this section shall be for a period of 20 years. For the first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

(1) In the eleventh year after completion, 10 percent of taxes otherwise due;

(2) In the twelfth year after completion, 20 percent of taxes otherwise due;

(3) In the thirteenth year after completion, 30 percent of taxes otherwise due;

(4) In the fourteenth year after completion, 40 percent of taxes otherwise due;

(5) In the fifteenth year after completion, 50 percent of taxes otherwise due;

(6) In the sixteenth year after completion, 60 percent of taxes otherwise due;

(7) In the seventeenth year after completion, 70 percent of taxes otherwise due;

(8) In the eighteenth year after completion, 80 percent of taxes otherwise due;

(9) In the nineteenth full year after completion, 90 percent of taxes otherwise due;

(10) In the twentieth year after completion, and each year thereafter, 100 percent of taxes.

d. The exemption granted by paragraph (2) of subsection b. of this section and an extended exemption period authorized by the municipal assessor of a government-restricted municipality pursuant to paragraph (3) of subsection b. of this section shall be for a period of 30 years. For the first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

(1) In the eleventh year after completion, five percent of taxes otherwise due;

(2) In the twelfth year after completion, 10 percent of taxes otherwise due;

(3) In the thirteenth year after completion, 15 percent of taxes otherwise due;

(4) In the fourteenth year after completion, 20 percent of taxes otherwise due;

(5) In the fifteenth year after completion, 25 percent of taxes otherwise due;

(6) In the sixteenth year after completion, 30 percent of taxes otherwise due;

(7) In the seventeenth year after completion, 35 percent of taxes otherwise due;

(8) In the eighteenth year after completion, 40 percent of taxes otherwise due;

(9) In the nineteenth year after completion, 45 percent of taxes otherwise due;

(10) In the twentieth year after completion, and each year thereafter, 50 percent of taxes;

(11) In the twenty-first year after completion, 55 percent of taxes otherwise due;

(12) In the twenty-second year after completion, 60 percent of taxes otherwise due;

(13) In the twenty-third year after completion, 65 percent of taxes otherwise due;

(14) In the twenty-fourth year after completion, 70 percent of taxes otherwise due;

(15) In the twenty-fifth year after completion, 75 percent of taxes otherwise due;

(16) In the twenty-sixth year after completion, 80 percent of taxes otherwise due;

(17) In the twenty-seventh year after completion, 85 percent of taxes otherwise due;

(18) In the twenty-eighth year after completion, 90 percent of taxes otherwise due;

(19) In the twenty-ninth year after completion, 95 percent of taxes otherwise due;

(20) In the thirtieth year after completion, and each year thereafter, 100 percent of taxes.

e. An amount not less than five percent of all payments pursuant to subsections c. and d. of this section shall be paid to the county in which the municipality is located.

f. Upon the termination of the exemption granted pursuant to subsections c. and d. of this section, the project, all affected parcels, land, and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the Garden State Growth Zone Development Entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

g. Notwithstanding subsection b. of this section, the owner of any property located within a Garden State Growth Zone, that does not qualify as a Garden State Growth Zone Development Entity, that performs any new construction, improvements, or substantial rehabilitation improvements to property, shall be entitled to an exemption from taxation regarding such improvements as provided herein. For purposes of such exemption, the municipality shall consider the assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby.

h. Any exemption obtained under this section shall be fully transferable upon the sale of real property, as long as the new owner meets all requirements for exemption set forth pursuant to this section, or, for the sale of a residential unit, as long as the new owner occupies the unit as a primary residence.

i. A Garden State Growth Zone Development Entity shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act, in connection with any approval or relief obtained related to property located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to an eligible property that is residential property.

3. This act shall take effect immediately.

Approved September 24, 2021.

CHAPTER 233

AN ACT establishing a supervised community reintegration program, supplementing Title 30 of the Revised Statutes, and amending P.L.1979, c.441.

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

C.30:1B-47 Definitions relative to domestic violence.

1. As used in P.L.2021, c.233 (C.30:1B-47 et seq.):

"Abuser" means the named perpetrator of the domestic violence in the documentation provided pursuant to paragraph (3) of subsection a. of this section.

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals.

"Designated domestic violence agency" means a countywide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined in the Division of Child Protection and Permanency in the Department of Children and Families and is under contract with the Department of Children and Families for the express purpose of providing those services.

C.30:1B-48 Supervised community reintegration program established.

2. a. There is hereby established in the Department of Corrections a supervised community reintegration program. The department shall consult with a Statewide domestic violence advocacy organization in the establishment and administration of the program. The purpose of the program is to foster the successful community reintegration of certain domestic violence victims who meet the following criteria:

(1) the inmate was convicted of crimes committed against the inmate's abuser as defined in section 2 of P.L.2021, c.233 (C.30:1B-48);

(2) the inmate is serving a sentence of imprisonment and meets the eligibility criteria pursuant to rules and regulations established by the department for residential community programs;

(3) the inmate is found to present a low risk of re-offense; and

(4) the other requirements of this section are met.

b. An eligible inmate approved for participation in the program established pursuant to this section shall undergo a period of rehabilitative services, be required to agree to participate in the program, and gradually transition to supervision in the community, which may include assignment to a residential community release program and participation in a work release program.

c. The department may authorize the participation of an eligible inmate in the residential community release program in accordance with the requirements of section 3 of P.L.2021, c.233 (C.30:1B-49). An eligible inmate participating in the residential community release program shall

remain in the custody of the Commissioner of Corrections and be subject to the department's rules and regulations.

C.30:1B-49 Application by eligible inmate to participate in program.

3. a. An eligible inmate may apply to the Department of Corrections seeking participation in the residential community release program in a manner and form prescribed by the department. The application contain the following:

(1) the crime for which the inmate is serving a sentence of imprisonment was committed against the alleged abuser and no one else;

(2) the inmate has not been convicted of a crime of violence against a person other than the alleged abuser; and

(3) documentation that the inmate is a victim of domestic violence, including, but not limited to:

(a) a restraining order or other documentation of equitable relief issued to the inmate by a court of competent jurisdiction against the abuser;

(b) a police record documenting the domestic violence between the inmate and the abuser;

(c) documentation that the abuser has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(d) medical documentation of the domestic violence;

(e) certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the inmate is a victim of domestic violence; or

(f) other documentation or certification of the domestic violence provided by a social worker or other professional who has assisted the inmate in dealing with domestic violence or any sufficient documentary evidence that the inmate has been a victim of domestic violence by the abuser.

b. Prior to considering an eligible inmate's application to participate in the residential community release program, the Department of Corrections shall cause to be completed application review materials, including a psychological evaluation of the applicant, an objective risk assessment, and a summary of the applicant's conduct regarding the offense, history, and evidence of abuse, and classification of institutional record since conviction.

C.30:1B-50 Approval, admission to the program.

4. If the Department of Corrections finds that the requirements set out in sections 2 and 3 of P.L.2021, c.233 (C.30:1B-48 and C.30:1B-49) are met, the department may approve that inmate to be admitted to the residential community release program, and shall determine any special conditions of participation that shall apply.

C.30:1B-51 Notice to county prosecutor or Attorney General.

5. a. Pursuant to rules and regulations established by the Department of Corrections, at least 10 working days prior to final determination of an application for participation in the program, the department shall notify the appropriate county prosecutor or the Attorney General, if appropriate. The notice shall be given in the manner prescribed by the department and shall contain all information and documentation relating to the application as the department shall deem appropriate and necessary, as well as information on the program and the consideration process.

b. Upon receipt of the notice, the county prosecutor or Attorney General, as the case may be, may submit comments to the department.

c. The information contained in any notice given by the department pursuant to this section and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized to receive or review that information or those comments.

d. The department shall provide written notice of its decision to the county prosecutor or Attorney General, as the case may be.

Nothing in this subsection shall be construed to limit the authority of the department to address a violation of a condition for participation in the program, including through dismissal from the program for a violation of conditions or a failure to meet the requirements of the program.

C.30:1B-52 Rules, regulations.

6. The Department of Corrections, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may promulgate rules and regulations to effectuate the purposes of this act.

7. This act shall take effect on the first day of the 13th month next following enactment.

Approved September 28, 2021.

CHAPTER 234

AN ACT concerning diversity and inclusivity within law enforcement agencies in this State and supplementing P.L.1948, c.439 (C.52:17B-1 et seq.).

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

1. a. The Civil Service Commission shall conduct, or select a qualified vendor to conduct, beginning not later than one year following enactment of this act, P.L.2021, c.234, an analysis of the racial composition of law enforcement agencies in this State, with the goal of identifying those agencies that might benefit most from eliminating any preference in hiring based upon residency.

All law enforcement agencies in this State shall participate and provide to the commission any requested information, whether or not such law enforcement agency operates pursuant to the provisions of Title 11A of the New Jersey Statutes.

b. In conducting the analysis, the commission or vendor shall, to the greatest extent possible:

(1) examine the racial composition of law enforcement agencies;

(2) examine the salaries of law enforcement officers;

(3) analyze and compare the data obtained pursuant to paragraphs (1) and (2) of this subsection;

(4) examine the variances in salaries based upon geography and socioeconomic factors; and

(5) examine how residency hiring preferences affect the incidence of diversity in law enforcement agencies.

c. Based upon the analysis, the commission shall consider whether the practice of removing eligibles from certain lists based upon residency should be discontinued.

d. The commission shall present the analysis to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

e. For the purposes of this section, "law enforcement agency" means and includes any county or municipal police department.

C.52:17B-77.18 "Low-income community" defined; Civil Service Commission program creation for preparatory courses, funding, law enforcement examinations.

2. a. For the purposes of this section, "low-income community" means any population census tract in which:

(1) the poverty rate for such tract is at least 20 percent, or

(2) (a) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

(b) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

b. The Civil Service Commission shall create a program with a goal of achieving at least one of the following two objectives:

(1) sponsoring free or low-cost preparatory courses for the entry level law enforcement examination for residents of any low-income community or of any municipality in this State with at least one "qualified opportunity zone" as determined under 26 U.S.C. 1400Z-1; or

(2) providing, securing, or identifying scholarships for alternate route programs or preparatory courses for the entry level law enforcement examination for residents of any low-income community or of any municipality in this State with at least one "qualified opportunity zone" as determined under 26 U.S.C. 1400Z-1.

The commission, or a designee thereof, is authorized to receive gifts, grants, or other financial assistance from private sources for the purpose of sponsoring the courses or funding the scholarships offered pursuant to this section, and entering into agreements related thereto with private sources, including but not limited to non-governmental, non-profit, educational, or charitable entities or institutions.

c. The commission may promulgate regulations to effectuate the provisions of this section which shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3. This act shall take effect immediately.

Approved September 28, 2021.

CHAPTER 235

AN ACT requiring the Civil Service Commission to establish a mentoring program to assist certain applicants for civil service employment and supplementing chapter 7 of Title 11A of the New Jersey Statutes.

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

C.11A:7-16 Civil service law enforcement mentoring program; establishment, maintenance.

1. a. Notwithstanding any law, rule, or regulation to the contrary, the Civil Service Commission shall establish and maintain a mentoring program for civil service law enforcement applicants who reside in a municipality with a median income at or below 250 percent of the federal poverty level. The program shall be expanded to minority applicants if the results of a properly conducted disparity study demonstrate particularized findings of past discrimination and the program is narrowly tailored to remedy that past discrimination.

The purpose of the mentoring program shall be to assist law enforcement applicants through the civil service application and selection process and to help address obstacles unique to their circumstances. The program may be conducted through mentoring projects, including workshops, group discussions, and dissemination of information about civil service practices which provide assistance in overcoming barriers to employment. The program shall be designed to provide a mentor to an applicant for the duration of the exam cycle, until the mentee completes the hiring process.

b. As used in this act:

"Mentee" means a civil service law enforcement applicant participating in the mentoring program established pursuant to subsection a. of this section.

"Mentor" means a volunteer who agrees to participate in the mentoring program established pursuant to subsection a. of this section. A mentor may be a current law enforcement officer in good standing who obtained the current law enforcement position through the civil service process, a former law enforcement officer who retired or resigned in good standing who obtained the law enforcement position through the civil service process, or any other person deemed appropriate by the Civil Service Commission.

c. The Civil Service Commission shall develop criteria to determine eligibility in the mentoring program as a mentor and as a mentee. Monies shall not be provided to a mentor to participate in the program and fees shall not be charged to a mentee to participate in the program. When possible, the mentor shall be of the same racial or ethnic background as the mentee.

d. A mentor or mentee may be removed from the program for good cause as determined by the Civil Service Commission. A mentee shall be removed from the program upon the mentee's acceptance of an offer of employment. An applicant may participate in the program as a mentee a maximum of three times within a 10-year period. After successfully completing the program, a former mentee may be eligible to participate in the program as a mentor.

e. At least once a year, the Civil Service Commission shall review the mentoring program for its efficacy, and make any necessary adjustments to continue to meet the needs and purpose of the program.

f. The Civil Service Commission shall develop rules and regulations to effectuate the purposes of P.L.2021, c.235.

2. This act shall take effect on the first day of the eighteenth month next following enactment, except the Civil Service Commission may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved September 28, 2021.

CHAPTER 236

AN ACT establishing an database to aid in the civil service hiring process for certain law enforcement officers and requiring a Statewide diversity analysis of law enforcement, and supplementing Title 11A of the New Jersey Statutes.

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

C.11A:4-1.4 Development, maintenance of database of entry-level law enforcement officer candidates.

1. a. The Civil Service Commission shall oversee and manage the development and maintenance of a database, which shall collect and track the background information received from a law enforcement agency of the State, or a political subdivision of the State that has adopted the provisions of Title 11A of the New Jersey Statutes, regarding candidates for the position of entry-level law enforcement officer in any county or municipal police department. All such law enforcement agencies shall participate and provide to the commission any requested information.

b. The database shall be considered confidential and shall be used only by the commission and participating law enforcement agencies across the State. The database shall not be subject to public access, inspection, or copying pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.).

c. (1) The information maintained in the database shall be determined by the commission, in consultation with various national and State law enforcement organizations, and shall include:

(a) all background information received from all candidates; and

(b) threshold decisions made for selection or disqualification of candidates by law enforcement agencies.

(2) The information maintained in the database shall exclude personal identifying information of candidates to prevent compromising personal privacy and security and to ensure a non-biased selection process.

d. The commission, in consultation with various national and State law enforcement organizations, shall develop universal guidelines and best practices for background investigations relating to threshold decisions for removal from the candidate list. The guidelines and best practices shall include training for background investigations to better understand the challenges underrepresented groups disproportionately face to prevent a failure to adequately account for such challenges during the selection or disqualification process.

e. The commission, in consultation with various national and State law enforcement organizations, local appointing authorities, and applicable employee collective negotiations agents, shall establish a universal background application to be utilized in the hiring process for police officers by all law enforcement agencies. The universal application shall be used to provide the information contained in the database established pursuant to subsection a. of this section.

f. The Chair of the Civil Service Commission may adopt rules and regulations to effectuate the provisions of P.L.2021, c.236 (C.11A:4-1.4 et seq.). The rules and regulations shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

g. As used in this section:

"Law enforcement agency" means and includes any county or municipal police department. "National and State law enforcement organizations" means organizations such as the National Organization of Black Law Enforcement Executives (NOBLE), the New Jersey chapter of NOBLE, and the Hispanic American Law Enforcement Association.

"Personal identifying information" means information that may be used, alone or in conjunction with any other information, to identify a specific individual and includes, but is not limited to, the name, address, e-mail address, social media address, telephone number, fax number, date of birth, social security number, driver's license number, official State issued identification number, employer or taxpayer number, place of employment, telephone number of employment, employee identification number, school address, school phone number, student identification number, mother's maiden name, unique biometric data, such as fingerprint, voice print, retina, or iris image, or other unique

physical representation, unique electronic identification number, medical diagnoses, treatments, or other medical information concerning an identifiable person.

C.11A:4-1.5 Notification of candidate status; certification notifications.

2. Timely notifications of candidate status and certification notifications shall be disseminated by the Civil Service Commission electronically via mail, e-mail or text message, dependent on the candidate's preferred option, to be indicated on the universal application established pursuant to subsection e. of section 1 of P.L.2021, c.236 (C.11A:4-1.4). Responses from candidates to certification notifications shall be submitted electronically to the commission via e-mail or by mail. Status notifications and certifications from the commission and responses from candidates shall be accurately logged and received in the database established pursuant to subsection a. of section 1 of P.L.2021, c.236 (C.11A:4-1.4).

3. a. The Civil Service Commission, in consultation with various national and State law enforcement agencies, as defined in section 1 of P.L.2021, c.236 (C.11A:4-1.4), shall conduct, or select a qualified vendor to conduct, a Statewide diversity analysis of the ethnic and racial make-up of all law enforcement agencies in the State.

All law enforcement agencies in this State shall participate and provide to the commission any requested information, whether or not the agency operates pursuant to the provisions of Title 11A of the New Jersey Statutes.

b. The commission shall prepare and submit a written report within one year of completion of the study to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

4. This act shall take effect immediately.

Approved September 28, 2021.

CHAPTER 237

AN ACT concerning student mental health, supplementing chapter 40 of Title 18A of the New Jersey Statutes, and making an appropriation.

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

C.18A:40-5.5 Findings, declaration relative to mental health.

1. The Legislature finds and declares that:

a. Depression is the most common mental health disorder among American teens and adults, with over 2.8 million young people between the ages of 12 and 17 experiencing at least one major depressive episode each year, approximately 10 to 15 percent of teenagers exhibiting at least one symptom of depression at any time, and roughly five percent of teenagers suffering from major depression at any time. Teenage depression is two to three times more common in females than in males.

b. Various biological, psychological, and environmental risk factors may contribute to teenage depression, which can lead to substance and alcohol abuse, social isolation, poor academic and workplace performance, unnecessary risk taking, early pregnancy, and suicide, which is the third leading cause of death among teenagers. Approximately 20 percent of teens with depression seriously consider suicide and one in 12 attempt suicide. Untreated teenage depression can also result in adverse consequences throughout adulthood.

c. Most teens who experience depression suffer from more than one episode. It is estimated that, although teenage depression is highly treatable through combinations of therapy, individual and group counseling, and certain medications, fewer than one-third of teenagers experiencing depression seek help or treatment.

d. The proper detection and diagnosis of depression is a key element in reducing the risk of teenage suicide and improving physical and mental health outcomes for young people. It is therefore fitting and appropriate to establish school-based depression screenings to help identify the symptoms of depression and facilitate access to appropriate treatment.

C.18A:40-5.6 Mental Health Screening in Schools Grant Program; purposes of program.

2. a. There is established in the Department of Education the Mental Health Screening in Schools Grant Program. The purpose of the grant program shall be to provide funding and resources to allow school districts to implement depression screening programs to identify students in the grades seven through 12 who are at risk of depression.

b. (1) A school district that receives an award under the grant program shall make available to each student in the grades seven through 12 an annual health screening for depression. The school district shall meet the following conditions when implementing its depression screening program:

(a) the school district shall use a research-based screening tool in its depression screening program conducted by a licensed mental health professional or through a partnership with an organization or healthcare

provider specializing in pediatric and adolescent mental health to conduct the screenings. Nothing in this subsection shall prohibit a school district from using a self-administered screening tool as part of the depression screening program;

(b) the screenings shall be conducted in a manner that permits real time evaluation of the screening results and same day intervention by a licensed mental health professional as indicated by the screening;

(c) the school district shall ensure that the screenings will be conducted in a manner that accommodates bilingual education students, students with disabilities, and students with low reading proficiency when conducting the screenings;

(d) the screenings shall be conducted in a manner that ensures the privacy of the student during the screening process and the confidentiality of the results, consistent with State and federal laws applicable to the confidentiality of student records and mental health records;

(e) pursuant to the provisions of P.L.2001, c.364 (C.18A:36-34), the school district shall obtain written informed consent from a student's parent or guardian prior to the screening;

(f) the school district shall develop a form to obtain permission from a student's parent or guardian to conduct the screening; and

(g) the school district shall forward data collected from the screenings to the Department of Education and the Department of Children and Families in a form and manner to be determined by the Department of Education, provided that any data forwarded shall be aggregated and shall not contain any identifying or confidential information with regard to any individual.

(2) To assist districts in selecting a research-based screening tool to use as part of depression screening programs, the Department of Education, in consultation with the Department of Children and Families, may develop a list of pre-approved research-based screening tools that are validated to screen depression in adolescents. The list shall be posted on the departments' Internet websites.

(3) (a) In the event that a school district chooses to partner with an organization or healthcare provider specializing in pediatric and adolescent mental health to conduct the depression screenings, the partner organization or provider may also provide mental health services as deemed necessary by the organization or provider and as consented to by a student's parent or guardian. A district partnering with an organization or healthcare provider specializing in pediatric and adolescent mental health may develop a form to obtain parental consent and student health insurance information as necessary to satisfy the provisions of any partnership agreement.

(b) The Department of Education, in consultation with the Department of Children and Families and the Department of Health, shall within 180 days of the date of enactment of this act develop guidance and resources for school districts to establish partnerships with organizations or healthcare providers specializing in pediatric and adolescent mental health to conduct depression screenings.

c. A school district seeking to participate and receive funding under the grant program shall submit an application to the Commissioner of Education, in accordance with application procedures and requirements prescribed by the commissioner. An application submitted by a school district shall include, at a minimum:

(1) a description of the depression screening program to be implemented by the school district and an explanation of how the district will make available to each student in the grades seven through 12 an annual health screening for depression;

(2) a description of how the school district will meet the conditions of paragraphs (1) and (3) of subsection b. of this section as applicable;

(3) details concerning the research-based screening tool that will be used by the district or whether the district will partner with an organization or healthcare provider specializing in pediatric and adolescent mental health to conduct the screenings;

(4) a request and justification for the amount of funding sought by the district under the grant program;

(5) a description of how the grant funding will be used to further the purposes of the depression screening program, including hiring additional personnel, purchasing materials, or contracting with outside entities;

(6) a description of how the depression screenings will be conducted in a manner that permits real-time evaluation of the screening results and same day intervention by a licensed mental health professional if required by the results of the screening;

(7) as applicable, the details of any partnership with an organization or provider specializing in pediatric and adolescent mental health services, which shall include, but not be limited to, the name of the organization or provider, the number of students being served by the organization or provider, the expected timeframe to screen the students, the costs associated with engaging in a partnership with the organization or provider, and the location where the screenings will take place. A school district shall detail whether student health insurance information will be required under its agreement with a partner organization or provider, how it will obtain that information, and what accommodations will be made for uninsured or

underinsured students whose parents or guardians have consented to the depression screening;

(8) a description of how the district will ensure that the parent or guardian of a student whose screening for depression detects an abnormality is notified of such abnormality and how it will advise the parent or guardian of the services available through a partner organization or provider or supply the parent or guardian with resources to assist in the acquisition of the services of a health care professional in order to obtain further evaluation and diagnosis; and

(9) a description of how the district will obtain written informed consent from a student's parent or guardian prior to the screening, in accordance with the provisions of P.L.2001, c.364 (C.18A:36-34).

d. Awards under the grant program shall be allocated to school districts in a manner to be determined by the commissioner, except that the commissioner shall, to the greatest extent possible, approve applications from at least one school district in each the northern, central, and southern regions of the State and seek a cross-section of school districts from urban, suburban, and rural areas of the State.

e. Nothing in this act shall be construed to affect a school district's ability to provide additional or supplemental services to a student as required by, or as consistent with, any applicable provision of State or federal law.

C.18A:40-5.7 Mental Health Screening in Schools Grant Program Fund established.

3. a. There is established in the Department of Education a non-lapsing fund which shall be known as the Mental Health Screening in Schools Grant Program Fund. All monies appropriated annually by the Legislature, federal and other grants received by the State, and any other monies made available for the purposes of the fund shall be deposited in the fund. Monies deposited in the fund shall be used by the Department of Education to provide funding for grants awarded pursuant to section 2 of this act.

b. A school district may seek to secure funds or other resources from the federal government or from private nonprofit or for-profit sources as may be available, to supplement funds received pursuant to the Mental Health Screening in Schools Grant Program Fund. These funds shall not have any impact on the availability of funding received under the Mental Health Screening in Schools Grant Program.

C.18A:40-5.8 Depression screening programs; report and evaluation.

4. a. The Commissioner of Education shall develop a report, or contract with a research institution or organization to develop a report, evaluating depression screening programs in school districts participating in the Mental

Health Screening in Schools Grant Program established pursuant to section 2 of this act as well as other school districts that have developed depression screening programs. In developing the report, the commissioner or contracted research organization or institution shall analyze the data forwarded to the Department of Education and the Department of Children and Families pursuant to subparagraph (g) of paragraph (1) of subsection b. of section 2 of this act. The study shall include information on:

(1) the costs of the programs to the districts and to parents or legal guardians of students, as well as any co-pays received by practitioners as part of the depression screening programs;

(2) the number of students identified as at risk of depression by the depression screenings in each district;

(3) the number of students who were provided mental health services as a result of the screenings;

(4) the number of students who were identified as needing follow-up services;

(5) the number of school staff members involved in the depression screening process and the time spent administering the screening;

(6) best practices utilized by the districts or mental health providers in implementing the depression screening programs;

(7) the health, academic, and safety benefits associated with establishing a depression screening program and an evaluation of any potential negative impacts on school districts and families that may be associated with implementing a depression screening program; and

(8) findings and recommendations concerning additional resources that may be necessary to screen adolescents for depression and to provide follow-up services to adolescents who have exhibited abnormalities in depression screenings.

b. Within 300 days following September 1 of the first full school year following the date of enactment, the report developed pursuant to subsection a. of this section shall be submitted to the Department of Education, the Department of Health, the Department of Children and Families, the Joint Committee on the Public Schools, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

5. There is appropriated from the General Fund the sum of $750,000 to the Mental Health Screening in Schools Grant Program Fund established pursuant to section 3 of this act to provide funding for grants under the Mental Health Screening in Schools Grant Program. There is appropriated

from the General Fund to the Department of Education the sum of $250,000 to implement the provisions of section 4 of this act.

6. This act shall take effect immediately and shall first apply in the first full school year following the date of enactment.

Approved September 28, 2021.

CHAPTER 238

AN ACT concerning corporate recordkeeping and blockchain technology and amending N.J.S.14A:5-28 and P.L.2009, c.176.

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

1. N.J.S.14A:5-28 is amended to read as follows:

Books and records; right of inspection.

14A:5-28. Books and records; right of inspection.

(1) Each corporation shall keep books and records of account and minutes of the proceedings of its shareholders, board and executive committee, if any. Unless otherwise provided in the bylaws, such books, records and minutes may be kept outside this State. The corporation shall keep at its principal office, its registered office, at the office of its transfer agent, or on an electronic network, a record or records containing the names and addresses of all shareholders, the number, class and series of shares held by each and the dates when they respectively became the owners of record thereof. Any of the foregoing books, minutes or records may be in written form or in any other form capable of being converted into readable form within a reasonable time, including on an electronic network. A corporation shall convert into readable form without charge any such records not in such form, upon the written request of any person entitled to inspect them.

(2) Upon the written request of any shareholder, the corporation shall mail to such shareholder its balance sheet as at the end of the preceding fiscal year, and its profit and loss and surplus statement for such fiscal year.

(3) Any person who shall have been a shareholder of record of a corporation for at least six months immediately preceding his demand, or any person holding, or so authorized in writing by the holders of, at least 5% of the outstanding shares of any class or series, upon at least five days' written demand

shall have the right for any proper purpose to examine in person or by agent or attorney, during usual business hours, its minutes of the proceedings of its shareholders and record of shareholders and to make extracts therefrom, at the places where the same are kept pursuant to subsection 14A:5-28(1). If the records are kept on an electronic network, the corporation shall convert any records so kept into a clearly legible form upon the request of any person entitled to the records in the timeframe required pursuant to this subsection.

(4) Nothing herein contained shall impair the power of any court, upon proof by a shareholder of proper purpose, irrespective of the period of time during which the shareholder shall have been a shareholder of record, and irrespective of the number of shares held by him, to compel the production for examination by such shareholder of the books and records of account, minutes, and record of shareholders of a corporation. The court may, in its discretion prescribe any limitations or conditions with reference to the inspection, or award any other or further relief as the court may deem just and proper. The court may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this State and kept in this State upon whatever terms and conditions as the order may prescribe. In any action for inspection the court may proceed summarily.

(5) Holders of voting trust certificates representing shares of the corporation shall be regarded as shareholders for the purpose of this section.

(6) A corporation may impose reasonable limitations or conditions on the use or distribution of requested materials provided to a demanding shareholder: (a) pursuant to either subsection 14A:5-28(2) or 14A:5-28(3); or (b) prior to the order of a court pursuant to subsection 14A:5-28(4).

As used in this section, "electronic network" means one or more electronic networks or databases, including one or more distributed electronic networks or databases that utilize blockchain technology, administered by or on the behalf of the corporation.

2. Section 2 of P.L.2009, c.176 (C.14A:1-8.1) is amended to read as follows:

C.14A:1-8.1 Provision of certain notices by electronic transmission.

2. (1) Any notice required or permitted pursuant to the provisions of N.J.S.14A:1-1 et seq., or by a certificate of incorporation or by-laws or any resolution of directors or shareholders, may be provided by electronic transmission as follows:

(a) Any notice to shareholders given by the corporation pursuant to any provision of N.J.S.14A:1-1 et seq., or by a certificate of incorporation or by-

laws or any resolution of directors or shareholders, shall be effective if given by a form of electronic transmission consented to by the shareholder to whom the notice is given.

(i) Any consent given pursuant to paragraph (a) of this subsection shall be revocable by the shareholder by written notice, and not electronic transmission, to the corporation.

(ii) Any consent given pursuant to paragraph (a) of this subsection shall be deemed revoked if: (A) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with the shareholder's consent; and (B) that inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice following the second missed delivery; provided, however, the inadvertent failure to treat that inability as a revocation shall not invalidate any meeting or other action.

(b) Any notice to shareholders given by the corporation pursuant to any provision of N.J.S.14A:1-1 et seq., or by a certificate of incorporation or by-laws or any resolution of directors or shareholders, shall be deemed given:

(i) if by facsimile telecommunication, when directed to a number at which the shareholder has consented to receive notice;

(ii) if by electronic mail, when directed to an electronic mail address at which the shareholder has consented to receive notice;

(iii) if by a posting on an electronic network together with separate notice to the shareholder of that specific posting, upon the later of (A) that posting; or (B) the giving of the separate notice; or

(iv) if by any other form of electronic transmission, when directed to the shareholder.

(c) An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence that the notice has been given.

(d) For purposes of this section, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, an electronic network pursuant to N.J.S.14A:5-28, that creates a record that may be retained, retrieved and reviewed by a recipient, and that may be directly reproduced in paper form by that recipient through an automated process.

(2) This section shall not apply to notices required or permitted pursuant to N.J.S.14A:6-5, N.J.S.14A:7-3, N.J.S.14A:12-10, N.J.S.14A:12-12 or N.J.S.14A:14-15.

3. This act shall take effect immediately.

Approved September 28, 2021.

CHAPTER 239

AN ACT establishing a STEM outreach program and supplementing chapter 6 of Title 18A of the New Jersey Statutes.

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

C.18A:3B-99 Findings, declaration relative to STEM outreach program.

1. The Legislature finds and declares that:

a. The science, technology, engineering, and mathematics (STEM) field has become extremely important for the success of the innovation economy both in New Jersey and the United States, and STEM education is critical in developing a globally competitive workforce in the 21st century.

b. Despite the increasing demand for workers with experience in STEM, women and minority groups are largely underrepresented in the STEM workforce and in STEM education at the post-secondary level.

c. According to the National Science Foundation's Science and Engineering Indicators for 2016, women comprised only 29 percent of the science and engineering workforce, despite making up half of the total college-educated workforce in the United States.

d. The gender gap in the national STEM workforce is also evidenced in New Jersey as women made up only 25.1 percent of the State's STEM workforce in October 2018, according to the New Jersey Department of Labor and Workforce Development.

e. Although women comprise more than half of the nation's college students, they are underrepresented in many STEM-related post-secondary degree programs, especially in engineering and the computer sciences.

f. Racial and ethnic minorities are similarly underrepresented in the STEM field as Hispanics, blacks, and Native Americans/Alaska Natives make up a smaller share of the science and engineering workforce (11 percent) than their proportion in the general population (27 percent of the United States working age 33 population).

g. In 2012, only 11.2 percent of bachelor's degrees in science and engineering, 8.2 percent of master's degrees in science and engineering, and

4.1 percent of doctorate degrees in science and engineering were awarded to minority women.

h. Encouraging young women and minorities to pursue post-secondary degrees and careers in STEM professions and increasing opportunities in the STEM field are important means for realizing greater economic innovation, success, and equality.

C.18A:3B-100 Outreach program for young women and minorities to pursue degrees, careers in STEM.

2. a. The Department of Education, in consultation with the Office of the Secretary of Higher Education and the Commission on Science, Innovation and Technology, shall develop and administer an outreach program to encourage young women and minorities to pursue post-secondary degrees and careers in science, technology, engineering, and mathematics (STEM).

b. The department, in developing and administering the outreach program, shall:

(1) provide elementary and secondary school students, especially young women and minorities, with opportunities to increase their exposure to the STEM field;

(2) distribute various printed materials to schools, encouraging young women and minorities to pursue post-secondary degrees and careers in STEM;

(3) organize and conduct mentoring sessions, in which individuals working or pursuing a post-secondary degree in the STEM field engage with elementary and secondary school students;

(4) establish a mentoring program that partners STEM professionals and STEM post-secondary students with elementary and secondary school students;

(5) create programs to increase the recruitment and retention of underrepresented faculty in STEM subject areas; and

(6) undertake any other activities the Commissioner of Education, in consultation with the Secretary of Higher Education and the chair of the Commission on Science, Innovation and Technology, deems necessary to effectuate the purposes of the outreach program.

For purposes of this act, STEM shall include, but not be limited to, science, technology, engineering, mathematics, and computer science.

3. This act shall take effect 30 days after enactment.

Approved September 28, 2021.

CHAPTER 240

AN ACT concerning the designation of an official State logo to denote the manufacture of products in New Jersey, and amending P.L.2019, c.105.

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

1. Section 1 of P.L.2019, c.105 (C.52:16A-121) is amended to read as follows:

C.52:16A-121 State logo regarding manufacturing.

1. a. The Department of State, in coordination with the New Jersey Manufacturing Extension Program, Inc., shall develop and designate as an official State logo a "Made in New Jersey," "Made in NJ," or "MINJ" logo to allow manufacturers and producers of New Jersey-made products to denote that their products are made or produced in New Jersey. The Department of State shall develop guidelines for the use of the logo in any branding efforts by manufacturers and producers, and shall make the logo available to manufacturers and producers through an Internet website.

b. Any State agency, quasi-public agency, or public or private entity may promote the Internet website and logo developed pursuant to this section.

c. The Department of State shall promulgate and adopt rules and regulations to effectuate the purposes of this act. The rules and regulations shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the department in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately.

Approved September 28, 2021.

CHAPTER 241

AN ACT concerning veterans' honorable discharge papers and amending R.S.38:25-5.

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

1. R.S.38:25-5 is amended to read as follows:

Honorable discharges of veterans recorded without cost.

38:25-5. Each county clerk, or the register of deeds in counties having the same, shall record, without costs, when delivered to him for that purpose, in large and bound books of good paper to be provided for that purpose, and carefully preserved and indexed, and to be called and backed "honorable discharges of veterans," the honorable discharge or the certificate in lieu of an honorable discharge, and the record of service or notice of separation showing the record of service, as issued by the proper governmental agency of the Federal Government, of a person who has served in the Armed Forces of the United States, or a reserve component thereof, or of a member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

A veteran, or a person designated by the veteran as the veteran's personal representative, may withdraw the honorable discharge, certificate in lieu of an honorable discharge, record of service, or notice of separation showing the record of service from the county clerk at any time.

2. This act shall take effect immediately.

Approved September 28, 2021.

CHAPTER 242

AN ACT establishing the Office of Food Insecurity Advocate and supplementing Title 52 of the Revised Statutes.

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

C.52:27J-1 Findings, declarations relative to food insecurity.

1. The Legislature finds and declares that:

(a) Over one million people are estimated to be food insecure in New Jersey and more than one-third of them are children;

(b) The coronavirus disease 2019 pandemic is projected to cause a disproportionate increase in the rate of food insecurity in this State compared to the national rate and neighboring states;

(c) Several departments are responsible for administering different food insecurity programs in the State: the Department of Human Services administers the New Jersey Supplemental Nutrition Assistance Program; the Department of Health administers the New Jersey Supplemental Nutrition Program for Women Infants and Children; and the Department of Agriculture administers the United States Department of Agriculture's school nutrition program in New Jersey;

(d) The State's food insecurity programs are currently operating in silos and, in some cases, they may all cover the same families, yet not all eligible families are enrolled into each program; and

(e) Establishing an Office of the Food Insecurity Advocate by statute will help coordinate the administration of the State's food insecurity programs, advocate for the food insecure, and develop new policy initiatives to combat hunger and facilitate greater access to food relief programs.

C.52:27J-2 Definition of "food insecurity program".

2. As used in this act:

"Food insecurity program" means a nutrition program in this State that provides nutrition assistance to individuals without reliable access to a sufficient quantity of affordable, nutritious food and includes, but is not limited to, the New Jersey Supplemental Nutrition Assistance Program, the New Jersey Supplemental Nutrition Program for Women Infants and Children, the Commodity Supplemental Food program, the Senior Farmers Market Nutrition Program, the Child and Adult Care Program, and the United States Department of Agriculture's school nutrition program.

C.52:27J-3 Office of the Food Insecurity Advocate created.

3. There is created in the Executive Branch of the State Government the Office of the Food Insecurity Advocate. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Office of Food Insecurity Advocate is allocated to the Economic Development Authority in the Department of the Treasury, but notwithstanding this allocation, the office shall be independent of any supervision or control by the Economic Development Authority or by the department, or by any board or officer thereof, in the performance of its duties. The office shall have the duty to collaborate with the appropriate State agency to:

(a) coordinate outreach for food insecurity programs, including developing new initiatives and outreach campaigns and identifying best practices to increase enrollment in the State's food insecurity programs;

(b) establish a 24-hour toll-free hunger hotline to assist in making information about the State's food insecurity programs as widely available as possible;

(c) support grant application processes related to food insecurity for in-state providers and State departments by monitoring available grants, recommending grant applications, and assisting with the grant application process;

(d) coordinate communication with and between food banks;

(e) establish best practices for food banks to reduce food waste and to distribute more fresh produce and proteins to food insecurity programs and food banks;

(f) cooperate with research organizations and universities to monitor ongoing gap analysis that identifies areas that are undeserved by current food insecurity programs;

(g) work with State and community partners to develop a strategic plan to address identified gaps in areas that are undeserved by current food insecurity programs;

(h) oversee the development and implementation of public-private partnerships to address food insecurity;

(i) provide support in coordinating assistance to address food insecurity during federal or State declared states of emergency;

(j) coordinate food insecurity programming and initiatives for institutions of higher education with the Office of the Secretary of Higher Education;

(k) develop new initiatives, establish an outreach campaign, and identify best practices to reach senior citizens, persons with disabilities, and other vulnerable population; and

(l) coordinate outreach efforts for the newly unemployed who might be eligible for food insecurity programs.

C.52:27J-4 Appointment of food insecurity advocate.

4. The administrator and chief executive officer of the office is the food insecurity advocate, who shall be a person qualified by training and experience to perform the duties of the office. The food insecurity advocate shall be appointed by the Governor and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the food insecurity advocate's successor. The food insecurity advocate shall devote time entirely to the duties of the position and shall receive a salary as determined by law. Any vacancy occurring in the position of the food insecurity advocate shall be filled in the same manner as the original appointment; except that if the food insecurity advocate dies,

resigns, becomes ineligible to serve for any reason, or is removed from office, the Governor shall appoint an acting food insecurity advocate, who shall serve until the appointment and qualification of the food insecurity advocate's successor, but in no event longer than six months from the occurrence of the vacancy, and who shall exercise during this period all the powers and duties of the food insecurity advocate pursuant to the provisions of this act.

C.52:27J-5 Duties of food insecurity advocate.

5. The food insecurity advocate, as administrator and chief executive officer of the office, shall:

a. administer and organize the work of the office and establish therein such administrative subdivisions as the food insecurity advocate may deem necessary, proper and expedient. The food insecurity advocate may formulate and adopt rules and regulations and prescribe duties for the efficient conduct of the business, work and general administration of the office. The food insecurity advocate may delegate to subordinate officers or employees in the office such power as the food insecurity advocate may deem desirable to be exercised under the food insecurity advocate's supervision and control;

b. appoint and remove stenographic, clerical, and other secretarial assistants as may be required for the proper conduct of the office, subject to the provisions of Title 11A of the New Jersey Statutes, and other applicable statutes, and within the limits of funds appropriated or otherwise made available therefor. In addition, and within funding limits, the food insecurity advocate may appoint, retain, or employ, without regard to the provisions of Title 11A of the New Jersey Statutes or any other statutes, any officers, financial managers, social workers, or other professionally qualified personnel on a contract basis or otherwise as the food insecurity advocate deems necessary;

c. maintain suitable headquarters for the office and such other quarters as the food insecurity advocate shall deem necessary to the proper functioning of the office;

d. solicit and accept grants of funds from the federal government and from other public and any private sources for any of the purposes of this act; provided, however, that any such funds shall be expended only pursuant to an appropriation made by law;

e. serve as the liaison between the Office of the Food Insecurity Advocate and the Departments of Agriculture, Education, Health, and Human Services; and

f. perform such other functions as may be prescribed in this act or by any other law.

C.52:27J-6 Rules, regulations.

6. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the food insecurity advocate and the Commissioners of Agriculture, Education, Health, and Human Services may adopt any rules and regulations necessary to effectuate the purposes of this act.

7. This act shall take effect immediately.

Approved September 30, 2021.

CHAPTER 243

AN ACT concerning the participation of senior citizens in the New Jersey Supplemental Nutrition Assistance Program and supplementing Title 44 of the Revised Statutes.

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

C.44:10-81.3 Streamlining SNAP application for senior citizens.

1. a. The Commissioner of Human Services, to the maximum extent permissible under federal law, shall review and streamline the SNAP application process for senior citizens, as provided in this section. The goal of the streamlining process shall be to ensure that the number of senior SNAP participants either matches or exceeds New Jersey's overall SNAP participation rates.

b. In streamlining the SNAP application process for seniors, as required by this section, the commissioner shall, at a minimum:

(1) develop and make available a simplified SNAP application form for use by seniors;

(2) provide for the increased sharing of data between the State's various social services programs and platforms; and

(3) authorize, and establish appropriate procedures to facilitate, the simultaneous or cross enrollment of eligible seniors in the Medicaid program and SNAP.

c. The Department of Human Services, working in consultation and cooperation with relevant senior citizen advocacy organizations, shall

engage in comprehensive outreach efforts to ensure that all eligible seniors are made aware of their ability to apply for and obtain SNAP benefits through a streamlined and expedited process. At a minimum, the department shall provide outreach at all health care facilities, social service agencies that serve seniors in the State, and other organizations focused on food assistance, and shall use all available media, including print, radio, television, and the Internet, to inform residents on the availability of the streamlined SNAP application process established pursuant to this section.

d. The Commissioner of Human Services shall apply to the Food and Nutrition Service within the United States Department of Agriculture for any necessary waivers or approvals to implement the provisions of this section.

e. As used in this section:

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Medicaid program" means the State Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Senior citizen" or "senior" means a person who is 60 years of age or older.

"SNAP" means the New Jersey Supplemental Nutrition Assistance Program, established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.).

C.44:10-81.4 Rules, regulations.

2. The Commissioner of Human Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

3. This act shall take effect immediately.

Approved September 30, 2021.

CHAPTER 244

AN ACT concerning the New Jersey Supplemental Nutrition Assistance Program and unemployment compensation benefits and supplementing chapter 21 of Title 43 of the Revised Statutes.

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

C.43:21-11.5 Information regarding New Jersey Supplemental Nutrition Assistance Program on Department of Labor and Workforce Development communication.

1. The Department of Labor and Workforce Development shall make available on its website and emails concerning unemployment benefits a link to the New Jersey Supplemental Nutrition Assistance Program, as established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.110-246 (7 U.S.C. s.2011 et seq.).

2. This act shall take effect immediately.

Approved September 30, 2021.

CHAPTER 245

AN ACT concerning a mobile software program for New Jersey Supplemental Nutritional Assistance Program recipients, supplementing Title 44 of the Revised Statutes, and making an appropriation.

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

C.44:10-107 Definitions regarding mobile-friendly software and SNAP.

1. As used in this act:

"Commissioner" means the Commissioner of Human Services.

"Electronic benefit transfer card or benefit card" means a benefit card utilized by a consumer to gain access to nutrition assistance program benefits.

"Mobile-friendly software" means a computer program or web-based software application designed to be used in conjunction with a mobile electronic communication device, as defined herein, and available through multiple software platforms.

"Mobile electronic communication device" means any mobile device capable of communication or other transmission of information and includes, but is not limited to, a cellular telephone, wireless tablet, or other device with Internet capability, or other wireless communication device.

"Supplemental Nutrition Assistance Program" or "SNAP" means the supplemental nutrition assistance program, established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.88-525 (7 U.S.C. s.2011 et seq.).

C.44:10-108 Mobile-friendly software for SNAP recipients.

2. a. The Department of Human Services shall develop and maintain, or enter into or modify an agreement with a third party to develop and maintain

mobile-friendly software for SNAP recipients. The mobile-friendly software shall include, but not be limited to, functionality that allows a user of the mobile software program who is recipient of SNAP benefits to:

(1) view the user's SNAP case status and the current benefits the user receives;

(2) request an electronic benefit transfer card or a replacement card;

(3) upload and submit required documents for continued participation in SNAP and track the current processing status of those documents;

(4) receive notices and updates regarding important deadlines or actions;

(5) read and print notices and letters;

(6) update contact information;

(7) request to have a letter mailed to the user listing the amount of benefits the user receives;

(8) view local contact information for the County Board of Social Services for the county in which the user resides and

(9) access any other functionalities as determined by the department.

b. The mobile-friendly software shall be made available free of charge and in multiple languages.

C.44:10-109 Commissioner's application for waivers, grants.

3. The commissioner shall apply for any:

a. waivers from the federal government, which are necessary for the approval and implementation of this act; and

b. grants through the SNAP Process and Technology Improvement Grants program within the United States Department of Agriculture to receive federal funding to implement the provisions of this act.

C.44:10-110 Rules, regulations.

4. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations as may be necessary to effectuate the provisions of this act.

5. There is appropriated $2,000,000 from the General Fund to the Department of Human Services to fund the development and maintenance of the mobile friendly software required pursuant to P.L.2021, c.245 (C. 44:10-107 et seq.).

6. This act shall take effect immediately.

Approved September 30, 2021.

CHAPTER 246

AN ACT concerning summer food service programs and supplementing Title 18A of the New Jersey Statutes.

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

C.18A:33-27.5 Department of Agriculture, provision of summer per meal financial supplement; annual report; funds appropriation.

1. a. The Department of Agriculture, in consultation with the Department of Education, shall provide a 10-cent per meal supplement to the existing federal reimbursement to operators of the federal summer food service program and the Seamless Summer Option (SSO).

b. The Department of Agriculture, in consultation with the Department of Education, shall provide guidance and support to school districts necessary to effectuate the purposes of this act.

c. The Department of Agriculture shall prepare and issue an annual report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the annual cost of the summer food service program and the Seamless Summer Option (SSO) supplement to the State per month, and the number of additional students, since the prior year, participating in the summer food service program or the Seamless Summer Option (SSO).

d. The Legislature shall annually appropriate such funds as are necessary to implement this act.

2. This act shall take effect June 1, 2022.

Approved September 30, 2021.

CHAPTER 247

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

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

C.18A:33-11.7 Department of Agriculture, provision of "breakfast after the bell" per meal financial supplement; annual report; funds appropriation.

1. a. The Department of Agriculture, in consultation with the Department of Education, shall provide a 10-cent per breakfast supplement to the existing federal reimbursement to school districts that participate in the federal school breakfast program by providing "breakfast after the bell."

b. The Department of Agriculture, in consultation with the Department of Education, shall provide guidance and support to school districts necessary to effectuate the purposes of this act.

c. The Department of Agriculture, in consultation with the Department of Education, shall prepare and issue an annual report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the annual cost of the breakfast supplement to the State, and the number of additional students, since the prior year, participating in the "breakfast after the bell" program for each school district.

d. The Legislature shall annually appropriate such funds as are necessary to implement this act.

2. This act shall take effect on the first day of the 2022-2023 school year.

Approved September 30, 2021.

CHAPTER 248

AN ACT concerning age discrimination and revising various parts of the statutory law.

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

1. Section 1 of P.L.1938, c.295 (C.10:3-1) is amended to read as follows:

C.10:3-1 Age discrimination prohibited; exceptions.

1. In the selection of persons for employment in the service of the State, or of any county or municipality thereof, no appointing officer shall discriminate against any such applicant because such applicant has attained the age of at least 40 years, at the time of said application for employment. Any provisions of law, executive order, rule or regulation to the contrary notwithstanding, no person other than a justice of the Supreme Court or a judge of the Superior Court pursuant to Article VI, Section VI, paragraph 3 of

the Constitution of the State of New Jersey, or a judge of the Tax Court, or a judge of the Office of Administrative Law or a judge of the Division of Workers' Compensation, or a member of the Division of State Police, employed in the service of the State, or of any county or municipality thereof, or a member of a police or fire department employed in the service of the State or of any county or municipality thereof, shall be required to retire upon the attainment of a particular age unless the public employer can show that the person in the service of the State, or of any county or municipality thereof, is unable to adequately perform the person's duties. A contract of tenure or similar arrangement providing for tenure shall not bar a public employer from showing that the person in the service of the State, or of any county or municipality thereof, is unable to adequately perform the person's duties. A person in the employ of the State, or of any county or municipality thereof, who is required to retire upon the attainment of a particular age in violation of this section shall be entitled to reinstatement with back pay and interest.

2. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

C.10:5-12 Unlawful employment practices, discrimination.

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation

of the particular business or enterprise; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least $27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

The provisions of subsections a. and b. of section 57 of P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the implementation thereof.

For the purposes of this subsection, an unlawful employment practice occurs, with respect to discrimination in compensation or in the financial terms or conditions of employment, each occasion that an individual is affected by application of a discriminatory compensation decision or other practice, including, but not limited to, each occasion that wages, benefits, or other compensation are paid, resulting in whole or in part from the decision or other practice.

In addition to any other relief authorized by the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for discrimination in compensation or in the financial terms or conditions of employment, liability shall accrue and an aggrieved person may obtain relief for back pay for the entire period of time, except not more than six years, in which the violation with regard to discrimination in compensation or in the financial terms or

conditions of employment has been continuous, if the violation continues to occur within the statute of limitations.

Nothing in this subsection shall prohibit the application of the doctrine of "continuing violation" or the "discovery rule" to any appropriate claim as those doctrines currently exist in New Jersey common law. It shall be an unlawful employment practice to require employees or prospective employees to consent to a shortened statute of limitations or to waive any of the protections provided by the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, pregnancy or breastfeeding, or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality, pregnancy or breastfeeding, or sex or liability of any applicant for employment for service in the Armed Forces of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has sought legal advice regarding rights under this act, shared relevant information with legal counsel, shared information with a governmental entity, or filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or

enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. (1) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States or nationality of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding status, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, provided individuals shall be admitted based on their gender identity or expression, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

(2) Notwithstanding the definition of "a place of public accommodation" as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity, or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States or nationality of such person.

In addition to the penalties otherwise provided for a violation of P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S.33:1-12 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments;

(2) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, liability for service in the Armed Forces of the United States, nationality or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity, or expression, affectional or sexual orientation, familial status, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex provided individuals shall be qualified based on their gender identity or expression;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease,

assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any

person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex, provided individuals shall be qualified based on their gender identity or expression;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution involved in the making or purchasing of any loan or extension of credit, for whatever purpose, whether secured by residential real estate or not, including but not limited to financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, familial status or nationality, in the granting, withholding, extending, modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or purchase thereof or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for

service in the Armed Forces of the United States, familial status or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information;

(3) (Deleted by amendment, P.L.2003, c.180).

(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To discriminate against any person or group of persons because that person's family includes children under 18 years of age, or to make an agreement or mortgage which provides that the agreement or mortgage shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States, nationality, or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, marital status, civil

union status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person's family members, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's family members, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract, or other document do not otherwise violate the provisions of this subsection.

n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise

doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection; provided that this subsection shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

o. For any multiple listing service, real estate brokers' organization or other service, organization or facility related to the business of selling or renting dwellings to deny any person access to or membership or participation in such organization, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States or nationality.

p. Nothing in the provisions of this section shall affect the ability of an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of State or federal law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

q. (1) For any employer to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observance, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the religion or religious belief, unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's religious observance or practice without undue hardship on the conduct of the employer's business. Notwithstanding any other provision of law to the contrary, an employee shall not be entitled to premium wages or premium benefits for work performed during hours to which those premium wages or premium benefits would ordinarily be applicable, if the employee is working during those hours only as an accommodation to his religious requirements. Nothing in this subsection q. shall be construed as reducing:

(a) The number of the hours worked by the employee which are counted towards the accruing of seniority, pension or other benefits; or

(b) Any premium wages or benefits provided to an employee pursuant to a collective bargaining agreement.

(2) For an employer to refuse to permit an employee to utilize leave, as provided for in this subsection q., which is solely used to accommodate the employee's sincerely held religious observance or practice. Except where it would cause an employer to incur an undue hardship, no person shall be required to remain at his place of employment during any day or days or portion thereof that, as a requirement of his religion, he observes as his Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and his home; provided that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at some other mutually convenient time, or shall be charged against any leave with pay ordinarily granted, other than sick leave, and any such absence not so made up or charged, may be treated by the employer of that person as leave taken without pay.

(3) (a) For purposes of this subsection q., "undue hardship" means an accommodation requiring unreasonable expense or difficulty, unreasonable interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system or a violation of any provision of a bona fide collective bargaining agreement.

(b) In determining whether the accommodation constitutes an undue hardship, the factors considered shall include:

(i) The identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer.

(ii) The number of individuals who will need the particular accommodation for a sincerely held religious observance or practice.

(iii) For an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

(c) An accommodation shall be considered to constitute an undue hardship if it will result in the inability of an employee to perform the essential functions of the position in which he or she is employed.

(d) (i) The provisions of this subsection q. shall be applicable only to reasonable accommodations of religious observances and shall not supersede any definition of undue hardship or standards for reasonable accommodation of the disabilities of employees.

(ii) This subsection q. shall not apply where the uniform application of terms and conditions of attendance to employees is essential to prevent undue hardship to the employer. The burden of proof regarding the applicability of this subparagraph (d) shall be upon the employer.

r. For any employer to take reprisals against any employee for requesting from, discussing with, or disclosing to, any other employee or former employee of the employer, a lawyer from whom the employee seeks legal advice, or any government agency information regarding the job title, occupational category, and rate of compensation, including benefits, of the employee or any other employee or former employee of the employer, or the gender, race, ethnicity, military status, or national origin of the employee or any other employee or former employee of the employer, regardless of whether the request was responded to, or to require, as a condition of employment, any employee or prospective employee to sign a waiver, or to otherwise require an employee or prospective employee to agree, not to make those requests or disclosures. Nothing in this subsection shall be construed to require an employee to disclose such information about the employee herself to any other employee or former employee of the employer or to any authorized representative of the other employee or former employee.

s. For an employer to treat, for employment-related purposes, a woman employee that the employer knows, or should know, is affected by pregnancy or breastfeeding in a manner less favorable than the treatment of other persons not affected by pregnancy or breastfeeding but similar in their ability or inability to work. In addition, an employer of an employee who is a woman affected by pregnancy shall make available to the employee reasonable accommodation in the workplace, such as bathroom breaks, breaks for increased water intake, periodic rest, assistance with manual labor, job restructuring or modified work schedules, and temporary transfers to less strenuous or hazardous work, for needs related to the pregnancy when the employee, based on the advice of her physician, requests the accommodation, and, in the case of a employee breast feeding her infant child, the accommodation shall include reasonable break time each day to the employee and a suitable room or other location with privacy, other than a toilet stall, in close proximity to the work area for the employee to express breast milk for the child, unless the employer can demonstrate that providing the accommodation would be an undue hardship on the business operations of the employer. The employer shall not in any way penalize the employee in terms, conditions or privileges of employment for requesting or using the accommodation. Workplace accommodation provided pursuant to this subsection and paid or unpaid leave provided to an employee affected by

pregnancy or breastfeeding shall not be provided in a manner less favorable than accommodations or leave provided to other employees not affected by pregnancy or breastfeeding but similar in their ability or inability to work. This subsection shall not be construed as otherwise increasing or decreasing any employee's rights under law to paid or unpaid leave in connection with pregnancy or breastfeeding.

For the purposes of this section "pregnancy or breastfeeding" means pregnancy, childbirth, and breast feeding or expressing milk for breastfeeding, or medical conditions related to pregnancy, childbirth, or breastfeeding, including recovery from childbirth.

For the purposes of this subsection, in determining whether an accommodation would impose undue hardship on the operation of an employer's business, the factors to be considered include: the overall size of the employer's business with respect to the number of employees, number and type of facilities, and size of budget; the type of the employer's operations, including the composition and structure of the employer's workforce; the nature and cost of the accommodation needed, taking into consideration the availability of tax credits, tax deductions, and outside funding; and the extent to which the accommodation would involve waiver of an essential requirement of a job as opposed to a tangential or non-business necessity requirement.

t. For an employer to pay any of its employees who is a member of a protected class at a rate of compensation, including benefits, which is less than the rate paid by the employer to employees who are not members of the protected class for substantially similar work, when viewed as a composite of skill, effort and responsibility. An employer who is paying a rate of compensation in violation of this subsection shall not reduce the rate of compensation of any employee in order to comply with this subsection. An employer may pay a different rate of compensation only if the employer demonstrates that the differential is made pursuant to a seniority system, a merit system, or the employer demonstrates:

(1) That the differential is based on one or more legitimate, bona fide factors other than the characteristics of members of the protected class, such as training, education or experience, or the quantity or quality of production;

(2) That the factor or factors are not based on, and do not perpetuate, a differential in compensation based on sex or any other characteristic of members of a protected class;

(3) That each of the factors is applied reasonably;

(4) That one or more of the factors account for the entire wage differential; and

(5) That the factors are job-related with respect to the position in question and based on a legitimate business necessity. A factor based on business necessity shall not apply if it is demonstrated that there are alternative business practices that would serve the same business purpose without producing the wage differential.

Comparisons of wage rates shall be based on wage rates in all of an employer's operations or facilities. For the purposes of this subsection, "member of a protected class" means an employee who has one or more characteristics, including race, creed, color, national origin, nationality, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or liability for service in the armed forces, for which subsection a. of this section prohibits an employer from refusing to hire or employ or barring or discharging or requiring to retire from employment or discriminating against the individual in compensation or in terms, conditions or privileges of employment.

3. Section 5 of P.L.1985, c.73 (C.10:5-12.1) is amended to read as follows:

C.10:5-12.1 Reinstatement, back pay.

5. As an alternative to or in addition to any other sanction provided by any other applicable law, relief for having been required to retire in violation of the provisions of section 11 of P.L.1945, c.169 (C.10:5-12), shall be available to the person aggrieved by that violation through the procedure initiated by filing a complaint with the Attorney General under the provisions of P.L.1945, c.169 (C.10:5-1 et seq.).

As an alternative to or in addition to any other sanction provided by section 16 of P.L.1945, c.169 (C.10:5-17) or any other applicable law, relief ordered for or granted to a person in connection with the person being required to retire in violation of the provisions of section 11 of P.L.1945, c.169 (C.10:5-12) shall include reinstatement with back pay and interest.

This section shall not apply to a violation regarding an inquiry as to an applicant's salary history pursuant to section 2 of P.L.2019, c.199 (C.10:5-12.12).

Repealer.

4. Section 4 of P.L.1985, c.73 (C.10:5-2.2) is repealed.

5. This act shall take effect immediately.

Approved October 5, 2021.

CHAPTER 249

AN ACT concerning quotas for arrests and citations and amending P.L.2000, c.164.

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

1. Section 2 of P.L.2000, c.164 (C.40A:14-181.2) is amended to read as follows:

C.40A:14-181.2 Police ticket quota for motor vehicle violations prohibited; permitted use of statistics.

2. a. A State, county, or municipal police department or force engaged in the enforcement of Title 39 of the Revised Statutes or any local ordinance adopted pursuant to this title shall not establish any quota for arrests or citations. The department or force may, however, collect, analyze, and apply information concerning the number of arrests and citations in order to ensure that a particular officer or group of officers does not violate any applicable legal obligation and for the purpose of forwarding that information to the Superintendent of State Police for inclusion in the Uniform Crime Report.

b. The department or force shall not use the number of arrests or citations issued by a law enforcement officer when evaluating the performance of a law enforcement officer, or as a criterion for promotion, demotion, dismissal, discipline, or the earning of any benefit provided by the department or force.

c. A department or force shall not post data regarding the number of arrests or citations in any area that is common to all law enforcement officers of the department or force, including a police station or barracks, for the purpose of creating competition between officers with respect to arrests and citations.

2. This act shall take effect immediately.

Approved October 7, 2021.

CHAPTER 250

AN ACT concerning the members of governing boards of public institutions of higher education, amending P.L.2009, c.308, and supplementing chapter 3B of Title 18A of the New Jersey Statutes.

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

C.18A:3B-6.3 Required training program for governing board member of public institution.

1. a. As a condition of serving as a member of the governing board of a public institution of higher education, a person shall be required to complete a training program developed by that institution in consultation with the Secretary of Higher Education that is designed to clarify the roles and duties of a governing board member.

b. The training shall be completed no later than one year after the date that the person is appointed as a member of the governing board of a public institution of higher education; except that a person who serves as a member of a governing board prior to the effective date of this act shall not be required to complete the training.

c. The institution, in consultation with the secretary, shall:

(1) prescribe the subject matter of the training which shall include, but need not be limited to, governance responsibilities, ethical standards, due diligence, the requirements of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), and P.L.1963, c.73 (C.47:1A-1 et seq.), issues associated with laws on privacy, board member fiduciary responsibilities, and a review of the types of financial, organizational, legal, and regulatory issues that a member of a governing board may be required to consider in the course of discharging the member's governance responsibilities;

(2) provide the training directly or arrange for, or specify, the entity or entities to provide the training. In the case of a county college, the secretary shall designate the New Jersey Council of County Colleges to provide the training;

(3) conduct a periodic review of the prescribed subject matter of the training to insure that the training includes information on relevant changes to State or federal law and other information deemed necessary to enable governing board members to serve effectively;

(4) certify completion of the training for each governing board member upon receipt of documentation thereof, as provided on a form and in a manner prescribed by the secretary, or otherwise arrange for certification by the training entity; and

(5) take other such actions as the secretary determines appropriate to effectuate the purposes of this act.

2. Section 17 of P.L.2009, c.308 (C.18A:3B-62) is amended to read as follows:

C.18A:3B-62 Provision of information, orientation, training.

17. A public research university and State college shall provide information, orientation, and training to each of its governing board members on the legal and ethical responsibilities of a member of the governing board. The training provided to governing board members shall be in accordance with the provisions of section 1 of P.L.2021, c.250 (C.18A:3B-6.3).

C.18A:3B-6.4 Rules, regulations.

3. The Secretary of Higher Education shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

4. This act shall take effect on the 180th day after the date of enactment, but the Secretary of Higher Education may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved October 18, 2021.

CHAPTER 251

AN ACT concerning notifications provided through certain electronic toll collection lanes and amending and supplementing P.L.1997, c.59.

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

1. Section 6 of P.L.1997, c.59 (C.27:23-34.1) is amended to read as follows:

C.27:23-34.1 Definitions relative to toll collection monitoring.

6. As used in sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and section 3 of P.L.2021, c.251 (C.27:23-34.7):

"Authority" means the New Jersey Turnpike Authority established by section 3 of P.L.1948, c.454 (C.27:23-3).

"Electronic toll collection system" means the electronic system employed or utilized by the authority to register and collect the toll required to be paid for a vehicle entering a toll plaza owned or operated by, or on behalf of, the authority.

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other process that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 7 of P.L.1997, c.59 (C.27:23-34.2) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

2. Section 11 of P.L.1997, c.59 (C.27:25A-21.1) is amended to read as follows:

C.27:25A-21.1 Definitions relative to toll collection monitoring.

11. As used in sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and section 4 of P.L.2021, c.251 (C.27:25A-21.7):

"Authority" means the South Jersey Transportation Authority established by section 4 of P.L.1991, c.252 (C.27:25A-4).

"Electronic toll collection system" means the electronic system employed or utilized by the authority to register and collect the toll required to be paid for a vehicle entering a toll plaza owned or operated by, or on behalf of, the authority.

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other process that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 12 of P.L.1997, c.59 (C.27:25A-21.2) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

C.27:23-34.7 New Jersey Turnpike Authority electronic toll collection system.

3. Notwithstanding any law, rule, or regulation to the contrary, the New Jersey Turnpike Authority shall transmit electronic notification pursuant to the provisions of this section to a customer that passes through a toll plaza operated by the authority, provided that the customer has an account for the electronic toll collection system that is registered with the New Jersey E-ZPass Customer Service Center or successor entity and voluntarily opts in for such notification. The notification shall alert the customer that the electronic toll collection system has registered the customer's account and may be provided by electronic mail, a text message sent directly to a customer's mobile device, or through a mobile

application. Notification shall be made within 24 hours of the transaction posting to the customer's account, or as soon as practicable if no valid account is recognized at the time of the transaction. A customer may opt out of receiving the notification that is provided pursuant to the provisions of this section at any time and may be required to confirm participation in the notification program.

C.27:25A-21.7 South Jersey Transportation Authority electronic toll collection system.

4. Notwithstanding any law, rule, or regulation to the contrary, the South Jersey Transportation Authority shall transmit electronic notification pursuant to the provisions of this section to a customer that passes through a toll plaza operated by the authority, provided that the customer has an account for the electronic toll collection system that is registered with the New Jersey E-ZPass Customer Service Center or successor entity and voluntarily opts in for such notification. The notification shall alert the customer that the electronic toll collection system has registered the customer's account and may be provided by electronic mail, a text message sent directly to a customer's mobile device, or through a mobile application. Notification shall be made within 24 hours of the transaction posting to the customer's account, or as soon as practicable if no valid account is recognized at the time of the transaction. A customer may opt out of receiving the notification that is provided pursuant to the provisions of this section at any time and may be required to confirm participation in the notification program.

5. This act shall take effect immediately, but the provisions of sections 3 and 4 of P.L.2021, c.251 (C.27:23-34.7 and C.27:25A-21.7) shall not be construed as affecting the terms of any contract or agreement in effect as of the effective date of this act.

Approved October 18, 2021.

CHAPTER 252

AN ACT concerning medical cannabis and amending P.L.2009, c.307 and P.L.2019, c.153.

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

1. Section 7 of P.L.2009, c.307 (C.24:6I-7) is amended to read as follows:

C.24:6I-7 Applications for permits.

7. a. (1) The commission shall accept applications from entities for permits to operate as medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries. For the purposes of this section, the term "permit" shall be deemed to include a conditional permit issued pursuant to subsection d. of section 11 of P.L.2019, c.153 (C.24:6I-7.1) and any permit issued to a microbusiness pursuant to subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

(2) (a) For a period of 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.):

(i) no applicant may concurrently hold more than one permit issued by the commission pursuant to this section, regardless of type; and

(ii) there shall be no more than 28 active medical cannabis cultivator permits, including medical cannabis cultivator permits deemed to be held by alternative treatment centers issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and medical cannabis cultivator permits deemed to be held by alternative treatment centers issued a permit subsequent to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.); provided that medical cannabis cultivator permits issued to microbusinesses pursuant to subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1) shall not count toward this limit.

(b) Commencing 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), a permit holder shall be authorized to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit, provided that no permit holder shall be authorized to concurrently hold more than one permit of each type. The permit holder may submit an application for a permit of any type that the permit holder does not currently hold prior to the expiration of the 18-month period described in subparagraph (a) of this paragraph, provided that no additional permit shall be awarded to the permit holder during the 18-month period.

(c) (i) The provisions of subparagraph (a) of this paragraph shall not apply to any alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), to any alternative treatment center that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), to one of the four alternative treatment centers issued a permit pursuant to an application submitted after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to a request for applications published in the New Jersey Register prior to the effective date of

P.L.2019, c.153 (C.24:6I-5.1 et al.) that are expressly exempt from the provisions of subsubparagraph (i) of subparagraph (a) of this paragraph, or to one of the three alternative treatment centers issued a permit pursuant to section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly exempt from the provisions of subsubparagraph (i) of subparagraph (a) of this paragraph, which alternative treatment centers shall be deemed to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit, and shall be authorized to engage in any conduct authorized pursuant to those permits in relation to the cultivation, manufacturing, and dispensing of medical cannabis.

(ii) In addition, each of the alternative treatment centers described in subsubparagraph (i) of this subparagraph, to which the provisions of subparagraph (a) of this paragraph shall not apply, shall, upon the adoption of the initial rules and regulations by the commission pursuant to subparagraph (a) of paragraph (1) of subsection d. of section 6 of P.L.2021, c.16 (C.24:6I-34), be deemed to either concurrently hold a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer License, a Class 5 Cannabis Retailer license, plus an additional Class 5 Cannabis Retailer license for each satellite dispensary authorized and established by the alternative treatment center pursuant to subparagraph (d) of this paragraph, and a Class 6 Cannabis Delivery license, or hold a Class 3 Cannabis Wholesaler license, and may also be deemed to hold a Class 4 Cannabis Distributor license. Any alternative treatment center deemed to hold one or more licenses as described in this subsubparagraph may begin to operate as any authorized class of cannabis establishment, or establishment and delivery service, or as a cannabis wholesaler and distributor, upon receipt of written approval from the municipality in which the proposed establishment or delivery service, or distributor is to be located and obtaining an initial license or licenses, as applicable, issued by the commission pursuant to paragraph (3) of subsection a. of section 33 of P.L.2021, c.16 (C.24:6I-46).

(d) (i) No entity may be issued or concurrently hold more than one medical cannabis cultivator permit, one medical cannabis manufacturer permit, or one medical cannabis dispensary permit at one time, and no medical cannabis dispensary shall be authorized to establish a satellite location on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), except that an alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be authorized to maintain up to two satellite dispensaries, including any satellite dispensary

that was approved pursuant to an application submitted prior to or within 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.). The three alternative treatment centers issued permits pursuant to section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly exempt from the provisions of subsubparagraph (i) of subparagraph (a) of this paragraph shall be authorized to establish and maintain up to one satellite dispensary location, provided that the satellite dispensary was approved pursuant to an application submitted within 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.).

(ii) Notwithstanding the provisions of subsubparagraph (i) of this subparagraph, an investor, investor group, or fund that provides significant financial or technical assistance or the significant use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit, which applicant has been certified as a minority business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), or is a disabled-veterans' business, as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2), may own up to a 35 percent interest in up to seven entities that have been issued a medical cannabis dispensary permit, provided that each such medical cannabis dispensary is a certified minority or women's business or a disabled-veterans' business, and the terms of the agreement to provide significant financial or technical assistance or the significant use of intellectual property, or a combination thereof, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement for the provision of significant financial or technical assistance or the significant use of intellectual property, or a combination thereof, may include performance, quality, and other requirements as a condition of providing the financial or technical assistance or use of intellectual property. An applicant for a medical cannabis dispensary permit that has or will receive significant financial or technical assistance or the significant use of intellectual property under this subsubparagraph shall include with the permit application materials submitted to the commission a copy of the agreement to provide significant financial or technical assistance or significant use of intellectual property, or a combination thereof, which agreement shall be subject to review by the commission as provided in subsection f. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

An applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the significant use of intellectual property under this subsubparagraph shall pay back to the investor, investor group, or fund the full value of the financial or technical

assistance or intellectual property provided under the agreement, plus any applicable interest and fees, in a period not less than five years after the date of the agreement if the full value of the assistance or property is less than $100,000, in a period not less than seven years after the date of the agreement if the full value of the assistance or property is between $100,001 and $250,000, in a period not less than 10 years after the date of agreement if the full value of the assistance or property is between $250,001 and $500,000, and, subject to any terms and conditions imposed by a lender, in a period not less than 10 years after the date of the agreement if the full value of the assistance or property is greater than $500,000. An investor, investor group, or fund that has acquired an ownership interest in one or more entities that have been issued a medical cannabis dispensary permit as authorized under this subsubparagraph may maintain the ownership interest after the date the full value of the financial or technical assistance or use of intellectual property provided under the agreement, plus interest and fees, has been repaid by the applicant that received the assistance or use of intellectual property.

In no case may the controlling interest in the entity that holds a medical cannabis dispensary permit in which an investor, investor group, or fund owns an interest as authorized under this subsubparagraph revert to the investor, investor group, or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, as applicable, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

An entity issued a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, or an individual associated with the ownership or management of the entity, may participate in an investor group or a fund that meets the requirements of this subsubparagraph.

(e) No entity issued a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit may concurrently hold a clinical registrant permit issued pursuant to section 13 of P.L.2019, c.153 (C.24:6I-7.3), and no entity issued a clinical registrant permit pursuant to section 13 of P.L.2019, c.153 (C.24:6I-7.3) may concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, or a medical cannabis dispensary permit.

(f) Any medical cannabis dispensary permit holder may be approved by the commission to operate a cannabis consumption area, provided that the permit holder otherwise meets the requirements of section 28 of P.L.2019, c.153 (C.24:6I-21).

(g) An alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be required to submit an attestation signed by a bona fide labor organization stating that the alternative treatment center has entered into a labor peace agreement with such bona fide labor organization no later than 100 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or no later than 100 days after the date the alternative treatment center first opens, whichever date is later. The maintenance of a labor peace agreement with a bona fide labor organization shall be an ongoing material condition of maintaining the alternative treatment center's permit. The failure to submit an attestation as required pursuant to this subparagraph within 100 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or within 100 days after the alternative treatment center first opens, as applicable, shall result in the suspension or revocation of the alternative treatment center's permit, provided that the commission may grant an extension to this deadline to the alternative treatment center based upon extenuating circumstances or for good cause shown.

As used in this subparagraph, "bona fide labor organization" means a labor organization of any kind or employee representation committee, group, or association, in which employees participate and which exists and is constituted for the purpose, in whole or in part, of collective bargaining or otherwise dealing with medical or personal use cannabis employers concerning grievances, labor disputes, terms or conditions of employment, including wages and rates of pay, or other mutual aid or protection in connection with employment, and may be characterized by: it being a party to one or more executed collective bargaining agreements with medical or personal use cannabis employers, in this State or another state; it having a written constitution or bylaws in the three immediately preceding years; it filing the annual financial report required of labor organizations pursuant to subsection (b) of 29 U.S.C. s.431, or it having at least one audited financial report in the three immediately preceding years; it being affiliated with any regional or national association of unions, including but not limited to state and federal labor councils; or it being a member of a national labor organization that has at least 500 general members in a majority of the 50 states of the United States.

(h) An alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be permitted to cultivate from up to two physical locations, provided that the alternative treatment center's combined mature cannabis plant grow canopy between both locations shall not exceed 150,000 square feet of bloom space or the square footage of canopy permitted under the largest tier in the tiered system adopted by the commission pursuant to paragraph (2) of subsection b. of section 21 of P.L.2021, c.16 (C. 24:6I-38).

(3) The commission shall seek to ensure the availability of a sufficient number of medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries throughout the State, pursuant to need, including at least two each in the northern, central, and southern regions of the State. Medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries issued permits pursuant to this section may be nonprofit or for-profit entities.

(4) The commission shall periodically evaluate whether the number of medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits issued are sufficient to meet the needs of qualifying patients in the State, and shall accept new applications and issue such additional permits as shall be necessary to meet those needs. The types of permits requested and issued, and the locations of any additional permits that are authorized, shall be in the discretion of the commission based on the needs of qualifying patients in the State.

(5) (a) A medical cannabis cultivator shall be authorized to: acquire a reasonable initial and ongoing inventory, as determined by the commission, of cannabis seeds or seedlings and paraphernalia; possess, cultivate, plant, grow, harvest, and package medical cannabis, including prerolled forms, for any authorized purpose, including, but not limited to, research purposes; and deliver, transfer, transport, distribute, supply, or sell medical cannabis and related supplies to any medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant in the State. In no case shall a medical cannabis cultivator operate or be located on land that is valued, assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

(b) A medical cannabis manufacturer shall be authorized to: purchase or acquire medical cannabis from any medical cannabis cultivator, medical cannabis manufacturer, or clinical registrant in the State; possess and utilize medical cannabis in the manufacture and creation of medical cannabis products; and deliver, transfer, transport, supply, or sell medical cannabis products and related supplies to any medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant in the State.

(c) A medical cannabis dispensary shall be authorized to: purchase or acquire medical cannabis from any medical cannabis cultivator, medical cannabis dispensary, or clinical registrant in the State and medical cannabis products and related supplies from any medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant in the State; purchase or acquire paraphernalia from any legal source; and distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients or their designated or institutional caregivers who are registered with the commission pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4). A medical cannabis dispensary may furnish medical cannabis, medical cannabis products, paraphernalia, and related supplies to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of subsection i. of section 27 of P.L.2019, c.153 (C.24:6I-20).

(6) A medical cannabis cultivator shall not be limited in the number of strains of medical cannabis cultivated, and a medical cannabis manufacturer shall not be limited in the number or type of medical cannabis products manufactured or created. A medical cannabis manufacturer may package, and a medical cannabis dispensary may directly dispense medical cannabis and medical cannabis products to qualifying patients and their designated and institutional caregivers in any authorized form. Authorized forms shall include dried form, oral lozenges, topical formulations, transdermal form, sublingual form, tincture form, or edible form, or any other form as authorized by the commission. Edible form shall include pills, tablets, capsules, drops or syrups, oils, chewable forms, and any other form as authorized by the commission, except that the edible forms made available to minor patients shall be limited to forms that are medically appropriate for children, including pills, tablets, capsules, chewable forms, and drops, oils, syrups, and other liquids.

(7) Nonprofit medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries need not be recognized as a 501(c)(3) organization by the federal Internal Revenue Service.

b. The commission shall require that an applicant provide such information as the commission determines to be necessary pursuant to regulations adopted pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).

c. A person who has been convicted of a crime of the first, second, or third degree under New Jersey law or of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (11) or (12) of subsection b. of N.J.S.2C:35-5, or paragraph (3) or (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a permit to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant or be a director, officer, or employee of a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, unless such conviction occurred after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law relating to possession or sale of cannabis for conduct that is authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

d. (1) The commission shall require each applicant seeking a permit to operate as, to be a director, officer, or employee of, or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant to undergo a criminal history record background check.

Any individual seeking to become a director, officer, or employee of a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, after issuance of an initial permit shall notify the commission and shall complete a criminal history record background check and provide all information as may be required by the commission as a condition of assuming a position as director, officer, or employee of the permitted entity. An individual who secures an investment interest or gains the authority to make controlling decisions in a permitted entity that makes the individual a significantly involved person shall notify the commission, complete a criminal history record background check, and provide all information as may be required by the commission no later than 30 days after the date the individual becomes a significantly involved person, or any permit issued to the individual or group of which the significantly involved person is a member shall be revoked and the individual or group shall be deemed ineligible to hold any ownership or investment interest in a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant for a period of at least two years, commencing from the date of revocation, and for such additional period of

time as the commission deems appropriate, based on the duration of the nondisclosure, the size of the individual's or group's investment interest in the permitted entity, the amount of profits, revenue, or income realized by the individual or group from the permitted entity during the period of nondisclosure, and whether the individual had a disqualifying conviction or would otherwise have been deemed ineligible to be a significantly involved person in a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

For purposes of this section, the term "applicant" shall include any owner, director, officer, or employee of, and any significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. The commission is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable State and federal laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commission in a timely manner when requested pursuant to the provisions of this section.

An applicant who is required to undergo a criminal history record background check pursuant to this section shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished the applicant's written consent to that check. An applicant who is required to undergo a criminal history record background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a permit to operate, or authorization to be employed at or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commission shall not approve an applicant for a permit to operate, or authorization to be employed at or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant if the criminal history record background information of the applicant reveals a disqualifying conviction as set forth in subsection c. of this section.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation,

the commission shall provide written notification to the applicant of the applicant's qualification or disqualification for a permit to operate or be a director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(4) The Division of State Police shall promptly notify the commission in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commission shall make a determination regarding the continued eligibility to operate or be a director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

(5) Notwithstanding the provisions of subsection c. of this section to the contrary, the commission may offer provisional authority for an applicant to be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant for a period not to exceed three months if the applicant submits to the commission a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.

(6) Notwithstanding the provisions of subsection c. of this section to the contrary, no applicant to be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant shall be disqualified on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commission clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;

(b) the nature and seriousness of the crime or offense;

(c) the circumstances under which the crime or offense occurred;

(d) the date of the crime or offense;

(e) the age of the individual when the crime or offense was committed;

(f) whether the crime or offense was an isolated or repeated incident;

(g) any social conditions which may have contributed to the commission of the crime or offense; and

(h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

e. The commission shall issue a permit to operate or be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary if the commission finds that issuing such a permit would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements of this section and section 11 of P.L.2019, c.153 (C.24:6I-7.1) are met. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. A permit to operate a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary issued on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be valid for one year and shall be renewable annually.

f. A person who has been issued a permit pursuant to this section or a clinical registrant permit pursuant to section 13 of P.L.2019, c.153 (C.24:6I-7.3) shall display the permit at the front entrance to the premises of the permitted facility at all times when the facility is engaged in conduct authorized pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) involving medical cannabis, including, but not limited to, the cultivating, manufacturing, or dispensing of medical cannabis.

g. A medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant shall report any change in information to the commission not later than 10 days after such change, or the permit shall be deemed null and void.

h. Each medical cannabis dispensary and clinical registrant shall maintain and make available on its Internet website, if any, a standard price list that shall apply to all medical cannabis, medical cannabis products, and related supplies and paraphernalia sold or dispensed by the medical cannabis dispensary or clinical registrant, which prices shall be reasonable and consistent with the actual costs incurred by the medical cannabis dispensary or clinical registrant in connection with acquiring and selling, transferring, or dispensing the medical cannabis or medical cannabis product and related supplies and paraphernalia. The prices charged by the medical cannabis dispensary or clinical registrant shall not deviate from the prices indicated on the entity's current price list, provided that a price list maintained by a

medical cannabis dispensary or clinical registrant may allow for medical cannabis to be made available at a reduced price or without charge to qualifying patients who have a demonstrated financial hardship, as that term shall be defined by the commission by regulation. A price list required pursuant to this subsection may be revised no more than once per month, and each medical cannabis dispensary and clinical registrant shall be responsible for ensuring that the commission has a copy of the facility's current price list. A medical cannabis dispensary or clinical registrant shall be liable to a civil penalty of $1,000 for each sale that occurs at a price that deviates from the entity's current price list, and to a civil penalty of $10,000 for each week during which the entity's current price list is not on file with the commission. Any civil penalties collected by the commission pursuant to this section shall be deposited in the "Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund" established under section 41 of P.L.2021, c.16 (C.24:6I-50), and used by the commission for the purposes of administering the State medical cannabis program.

i. The commission shall adopt regulations to:

(1) require such written documentation of each delivery or dispensation of cannabis to, and pickup of cannabis for, a registered qualifying patient, including the date and amount dispensed, and, in the case of delivery, the date and times the delivery commenced and was completed, the address where the medical cannabis was delivered, the name of the patient or caregiver to whom the medical cannabis was delivered, and the name, handler certification number, and delivery certification number of the medical cannabis handler who performed the delivery, to be maintained in the records of the medical cannabis dispensary or clinical registrant, as the commission determines necessary to ensure effective documentation of the operations of each medical cannabis dispensary or clinical registrant;

(2) monitor, oversee, and investigate all activities performed by medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries, and clinical registrants;

(3) ensure adequate security of all facilities 24 hours per day and security of all delivery methods to registered qualifying patients; and

(4) establish thresholds for administrative action to be taken against a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant and its employees, officers, investors, directors, or governing board pursuant to subsection m. of this section, including, but not limited to, specific penalties or disciplinary actions that may be imposed in a summary proceeding.

j. (1) Each medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, and clinical registrant shall require the owners, directors, officers, and employees at the permitted facility to complete at least eight hours of ongoing training each calendar year. The training shall be tailored to the roles and responsibilities of the individual's job function, and shall include training on confidentiality and such other topics as shall be required by the commission.

(2) Each medical cannabis dispensary and clinical registrant shall consider whether to make interpreter services available to the population served, including for individuals with a visual or hearing impairment. The commission shall provide assistance to any medical cannabis dispensary or clinical registrant that seeks to provide such services in locating appropriate interpreter resources. A medical cannabis dispensary or clinical registrant shall assume the cost of providing interpreter services pursuant to this subsection.

k. (1) The first six alternative treatment centers issued permits following the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) shall be authorized to sell or transfer such permit and other assets to a for-profit entity, provided that: the sale or transfer is approved by the commission; each owner, director, officer, and employee of, and significantly involved person in, the entity seeking to purchase or receive the transfer of the permit, undergoes a criminal history record background check pursuant to subsection d. of this section, provided that nothing in this subsection shall be construed to require any individual to undergo a criminal history record background check if the individual would otherwise be exempt from undergoing a criminal history record background check pursuant to subsection d. of this section; the commission finds that the sale or transfer of the permit would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.); and no such sale or transfer shall be authorized more than one year after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.). The sale or transfer of a permit pursuant to this subsection shall not be subject to the requirements of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., provided that, prior to or at the time of the sale or transfer, all debts and obligations of the nonprofit entity are either paid in full or assumed by the for-profit entity purchasing or acquiring the permit, or a reserve fund is established for the purpose of paying in full the debts and obligations of the nonprofit entity, and the for-profit entity pays the full value of all assets held by the nonprofit entity, as reflected on the nonprofit entity's balance sheet, in addition to the agreed-upon price for the sale or transfer of the entity's alternative treatment center permit. Until such time as the members of the Cannabis Regulatory

Commission are appointed and the commission first organizes, the Department of Health shall have full authority to approve a sale or transfer pursuant to this paragraph.

(2) The sale or transfer of any interest of five percent or more in a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit shall be subject to approval by the commission and conditioned on the entity that is purchasing or receiving transfer of the interest in the medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit completing a criminal history record background check pursuant to the requirements of subsection d. of this section.

l. No employee of any department, division, agency, board, or other State, county, or local government entity involved in the process of reviewing, processing, or making determinations with regard to medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit applications shall have any direct or indirect financial interest in the cultivating, manufacturing, or dispensing of medical cannabis or related paraphernalia, or otherwise receive anything of value from an applicant for a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit in exchange for reviewing, processing, or making any recommendations with respect to a permit application.

m. In the event that a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant fails to comply with any requirements set forth in P.L.2009, c.307 (C.24:6I-1 et al.) or any related law or regulation, the commission may invoke penalties or take administrative action against the medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant and its employees, officers, investors, directors, or governing board, including, but not limited to, assessing fines, referring matters to another State agency, and suspending or terminating any permit held by the medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. Any penalties imposed or administrative actions taken by the commission pursuant to this subsection may be imposed in a summary proceeding.

2. Section 11 of P.L.2019, c.153 (C.24:6I-7.1) is amended to read as follows:

C.24:6I-7.1 Acceptance, processing of applications.

11. a. The commission shall, no later than 90 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or upon adoption of rules and regulations as provided in subsection c. of section 18 of P.L.2009, c.307 (C.24:6I-16), whichever occurs later, begin accepting and processing applications for new medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits. Notwithstanding the provisions of subsubparagraph (i) of subparagraph (a) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7), the first three alternative treatment center permits issued by the commission pursuant to an application submitted on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and up to four alternative treatment centers permits issued by the commission after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be deemed to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit; of these permits, one permit shall be issued to an applicant located in the northern region of the State, one permit shall be issued to an applicant located in the central region of the State, and one permit shall be issued to an applicant located in the southern region of the State. Any permits issued by the commission thereafter shall be subject to the provisions of subsubparagraph (i) of subparagraph (a) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7), and the requirements of subsection d. of this section concerning conditional permits.

b. The commission may establish nonrefundable application fees for permit applications and conditional permit applications, and permit and conditional permit fees for successful applicants.

c. (1) The commission shall make a determination as to any permit application, other than an application for a conditional permit submitted pursuant to subsection d. of this section, no later than 90 days after receiving the application, which may include a determination that the commission reasonably requires more time to adequately review the application.

(2) The commission shall issue a permit, other than a conditional permit, to an approved applicant at such time as the commission completes the application review process and any mandatory inspections, and determines that the applicant is in compliance with and is implementing the plans, procedures, protocols, actions, or other measures set forth in the applicant's permit application submitted pursuant to section 12 of P.L.2019, c.153

(C.24:6I-7.2), did maintain compliance with the terms, conditions, or restrictions of a conditional permit issued to the applicant, if applicable, and is otherwise in compliance with the requirements of P.L.2009, c.307 (C.24:6I-1 et al.).

d. (1) The commission shall ensure that at least one third of the total permits issued for each type of medical cannabis permit are conditional permits, which one-third figure shall include any conditional permit issued to an applicant which is subsequently converted by the commission into a full permit pursuant to paragraph (4) of this subsection and any conditional permit, including a converted permit, issued to a microbusiness pursuant to subsection e. of this section. The requirements of this subsection shall not apply to permits issued to clinical registrants or to permits issued to the three alternative treatment centers issued a permit pursuant to subsection a. of this section that are expressly exempt from the provisions of subsubparagraph (i) of subparagraph (a) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7).

(2) An application for a conditional permit shall include:

(a) documentation that the applicant entity includes at least one significantly involved person who has resided in this State for at least two years as of the date of the application;

(b) a list of all owners, officers, directors, and employees of, and significantly involved persons in, the proposed medical cannabis entity, including their names, addresses, dates of birth, resumes, and a photocopy of their driver's licenses or other government-issued form of identification;

(c) a criminal history record background check completed pursuant to subsection d. of section 7 of P.L.2009, c.307 (C.24:6I-7) for each owner, officer, director, and employee of, and each significantly involved person in, the proposed medical cannabis entity, provided that a conditional permit may be issued pending the results of a criminal history record background check;

(d) documentation that each significantly involved person in the proposed medical cannabis entity has, for the immediately preceding taxable year, an adjusted gross income of no more than $200,000 or no more than $400,000 if filing jointly with another;

(e) a certification that each significantly involved person in the proposed medical cannabis entity does not have any financial interest in an entity applying for any other medical cannabis permit, or in an entity that currently holds a permit issued pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7);

(f) the federal and State tax identification numbers for the proposed medical cannabis entity, and proof of business registration with the Division of Revenue in the Department of the Treasury;

(g) information about the proposed medical cannabis entity, including its legal name, any registered alternate name under which it may conduct business, and a copy of its articles of organization and bylaws;

(h) the business plan and management operation profile for the proposed medical cannabis entity;

(i) the plan by which the applicant intends to obtain appropriate liability insurance coverage for the proposed medical cannabis entity; and

(j) any other requirements established by the commission pursuant to regulation.

(3) The commission shall make a determination on an application for a conditional permit within 30 days after the date the application is received. A determination made pursuant to this paragraph may include a determination that the commission requires more time to adequately review the application. The commission shall approve a permit application that meets the requirements of this subsection unless the commission finds by clear and convincing evidence that the applicant would be manifestly unsuitable to perform the activities authorized for the permit sought by the applicant. The commission shall deny a conditional permit to any applicant who fails to provide information, documentation, and assurances as required by this subsection; who fails to reveal any fact material to qualification; or who supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for issuance of a conditional permit. If the application is denied, the commission shall notify the applicant in writing of the specific reason for its denial and provide the applicant with the opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(4) The commission shall furnish to each entity issued a conditional permit a list of the requirements that the entity will be required to comply with within 120 days after issuance of the conditional permit. If the commission subsequently determines that, during the 120-day period, the conditional permit holder is in compliance with all applicable conditions and is implementing the plans, procedures, protocols, actions, or other measures set forth in its application, the commission shall convert the conditional permit into a full permit, which will expire one year from its date of issuance and be subject to annual renewal; if the commission determines that the conditional permit holder is not in compliance with all applicable conditions or not implementing the plans, procedures, protocols, actions, or other measures set forth in its application, the conditional permit shall automatically expire at the end of the 120-day period, or, at the discretion of the commission, may be revoked prior to the end of the 120-day period.

(5) A conditional permit issued pursuant this subsection may not be sold or transferred.

e. (1) The commission shall ensure that at least 10 percent of the total permits issued for each medical cannabis permit type, other than a clinical registrant permit, are designated for and only issued to microbusinesses, and that at least 25 percent of the total permits issued be issued to microbusinesses. A microbusiness may be issued a full annual permit pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7) or a conditional permit pursuant to subsection d. of this section. The maximum fee assessed by the commission for issuance or renewal of a permit issued to a microbusiness shall be no more than half the fee applicable to a permit of the same type issued to a person or entity that is not a microbusiness. A permit issued to a microbusiness shall be valid for one year and may be renewed annually.

(2) A microbusiness shall meet the following requirements:

(a) 100 percent of the ownership interest in the microbusiness shall be held by current New Jersey residents who have resided in the State for at least the past two consecutive years;

(b) at least 51 percent of the owners, directors, officers, and employees of the microbusiness shall be residents of the municipality in which the microbusiness is or will be located, or a municipality bordering the municipality in which the microbusiness is or will be located;

(c) the microbusiness shall employ no more than 10 employees at one time, inclusive of any owners, officers, and directors of the microbusiness;

(d) the microbusiness shall not exceed the following size and capacity restrictions:

(i) the entire microbusiness facility shall occupy an area of no more than 2,500 square feet;

(ii) in the case of a microbusiness that is a medical cannabis cultivator, the total medical cannabis grow area shall not exceed 2,500 square feet, measured on a horizontal plane, shall grow no higher than 24 feet above that plane, and shall possess a total of no more than 1,000 plants, including mature and immature medical cannabis plants, but not including seedlings;

(iii) in the case of a microbusiness that is a medical cannabis manufacturer, the manufacturer shall acquire and process no more than 1,000 pounds of medical cannabis in dried form each month; and

(iv) in the case of a microbusiness that is a medical cannabis dispensary, the dispensary shall acquire no more than 1,000 pounds of medical cannabis in dried form, or the equivalent amount in any other form, or any combination thereof, for dispensing to or on behalf of registered qualifying patients each month; and

(e) the microbusiness shall comply with such other requirements as may be established by the commission by regulation.

(3) The requirements of this subsection shall not apply to permits issued pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.).

f. The commission shall have the authority to review any services agreement submitted pursuant to subsection l. of section 12 of P.L.2019, c.153 (C.24:6I-7.2), and any agreement established under subsubparagraph (ii) of subparagraph (d) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7) to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, to determine whether the terms of the agreement, including interest rates, returns, and fees, are commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. In the event the commission determines the terms of an agreement are not commercially reasonable or consistent with the fair market value generally applicable to the services to be provided under the agreement, the commission shall have the authority to withhold approval of the permit application until the parties renegotiate a new agreement that, as determined by the commission, is commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. The parties to the agreement may request that the commission provide guidance as to what terms it would find to be commercially reasonable and consistent with the fair market value generally applicable to agreements of a comparable nature. Nothing in this subsection shall be construed to require the commission to award a permit to an applicant if the commission determines the applicant does not otherwise meet the requirements for issuance of the permit.

3. Section 12 of P.L.2019, c.153 (C.24:6I-7.2) is amended to read as follows:

C.24:6I-7.2 Submission of applications to commission.

12. a. Each application for a medical cannabis cultivator permit, medical cannabis manufacturer permit, and medical cannabis dispensary permit, and each application for annual renewal of such permit, including permit and renewal applications for microbusinesses that meet the requirements of subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1), shall be submitted to the commission. A full, separate application shall be required for each initial permit requested by the applicant and for each location at

which an applicant seeks to operate, regardless of whether the applicant was previously issued a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit, and regardless of whether the applicant currently holds a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit. Renewal applications shall be submitted to the commission on a form and in a manner as shall be specified by the commission no later than 90 days before the date the current permit will expire.

b. An initial permit application shall be evaluated according to criteria to be developed by the commission. The commission shall determine the point values to be assigned to each criterion, which shall include bonus points for applicants who are residents of New Jersey.

c. The criteria to be developed by the commission pursuant to subsection b. of this section shall include, in addition to the criteria set forth in subsections d. and e. of this section and any other criteria developed by the commission, an analysis of the applicant's operating plan, excluding safety and security criteria, which shall include the following:

(1) In the case of an applicant for a medical cannabis cultivator permit, the operating plan summary shall include a written description concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

(a) State-authorized cultivation of medical cannabis;

(b) conventional horticulture or agriculture, familiarity with good agricultural practices, and any relevant certifications or degrees;

(c) quality control and quality assurance;

(d) recall plans;

(e) packaging and labeling;

(f) inventory control and tracking software or systems for the production of medical cannabis;

(g) analytical chemistry and testing of medical cannabis;

(h) water management practices;

(i) odor mitigation practices;

(j) onsite and offsite recordkeeping;

(k) strain variety and plant genetics;

(l) pest control and disease management practices, including plans for the use of pesticides, nutrients, and additives;

(m) waste disposal plans; and

(n) compliance with applicable laws and regulations.

(2) In the case of an applicant for a medical cannabis manufacturer permit, the operating plan summary shall include a written description

concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

(a) State-authorized manufacture and creation of cannabis products using appropriate extraction methods, including intended use and sourcing of extraction equipment and associated solvents or intended methods and equipment for non-solvent extraction;

(b) pharmaceutical manufacturing, good manufacturing practices, and good laboratory practices;

(c) quality control and quality assurance;

(d) recall plans;

(e) packaging and labeling;

(f) inventory control and tracking software or systems for the production of medical cannabis;

(g) analytical chemistry and testing of medical cannabis and medical cannabis products and formulations;

(h) water management practices;

(i) odor mitigation practices;

(j) onsite and offsite recordkeeping;

(k) a list of product formulations or products proposed to be manufactured with estimated cannabinoid profiles, if known, including varieties with high cannabidiol content;

(l) intended use and sourcing of all non-cannabis ingredients used in the manufacture and creation of cannabis products, including methods to verify or ensure the safety and integrity of those ingredients and their potential to be or contain allergens;

(m) waste disposal plans; and

(n) compliance with applicable laws and regulations.

(3) In the case of an applicant for a medical cannabis dispensary permit, the operating plan summary shall include a written description concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

(a) State-authorized dispensation of medical cannabis to qualifying patients;

(b) healthcare, medicine, and treatment of patients with qualifying medical conditions;

(c) medical cannabis product evaluation procedures;

(d) recall plans;

(e) packaging and labeling;

(f) inventory control and point-of-sale software or systems for the sale of medical cannabis;

(g) patient counseling procedures;

(h) the routes of administration, strains, varieties, and cannabinoid profiles of medical cannabis and medical cannabis products;

(i) odor mitigation practices;

(j) onsite and offsite recordkeeping;

(k) compliance with State and federal patient privacy rules;

(l) waste disposal plans; and

(m) compliance with applicable laws and regulations.

d. The criteria to be developed by the commission pursuant to subsection b. of this section shall include, in addition to the criteria set forth in subsections c. and e. of this section and any other criteria developed by the commission, an analysis of the following factors, if applicable:

(1) The applicant's environmental impact plan.

(2) A summary of the applicant's safety and security plans and procedures, which shall include descriptions of the following:

(a) plans for the use of security personnel, including contractors;

(b) the experience or qualifications of security personnel and proposed contractors;

(c) security and surveillance features, including descriptions of any alarm systems, video surveillance systems, and access and visitor management systems, along with drawings identifying the proposed locations for surveillance cameras and other security features;

(d) plans for the storage of medical cannabis and medical cannabis products, including any safes, vaults, and climate control systems that will be utilized for this purpose;

(e) a diversion prevention plan;

(f) an emergency management plan;

(g) procedures for screening, monitoring, and performing criminal history record background checks of employees;

(h) cybersecurity procedures, including, in the case of an applicant for a medical cannabis dispensary permit, procedures for collecting, processing, and storing patient data, and the applicant's familiarity with State and federal privacy laws;

(i) workplace safety plans and the applicant's familiarity with federal Occupational Safety and Health Administration regulations;

(j) the applicant's history of workers' compensation claims and safety assessments;

(k) procedures for reporting adverse events; and

(l) a sanitation practices plan.

(3) A summary of the applicant's business experience, including the following, if applicable:

(a) the applicant's experience operating businesses in highly-regulated industries;

(b) the applicant's experience in operating alternative treatment centers and related medical cannabis production and dispensation entities under the laws of New Jersey or any other state or jurisdiction within the United States; and

(c) the applicant's plan to comply with and mitigate the effects of 26 U.S.C. s.280E on cannabis businesses, and for evidence that the applicant is not in arrears with respect to any tax obligation to the State.

In evaluating the experience described under subparagraphs (a), (b), and (c) of this paragraph, the commission shall afford the greatest weight to the experience of the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by the experience of those with a 15 percent or greater ownership interest in the applicant's organization; followed by significantly involved persons in the applicant's organization; followed by other officers, directors, and current and prospective employees of the applicant who have a bona fide relationship with the applicant's organization as of the date of the application.

(4) A description of the proposed location for the applicant's site, including the following, if applicable:

(a) the proposed location, the surrounding area, and the suitability or advantages of the proposed location, along with a floor plan and optional renderings or architectural or engineering plans;

(b) the submission of zoning approvals for the proposed location, which shall consist of a letter or affidavit from appropriate municipal officials that the location will conform to municipal zoning requirements allowing for such activities related to the cultivation, manufacturing, or dispensing of medical cannabis, cannabis products, and related supplies as will be conducted at the proposed facility; and

(c) the submission of proof of local support for the suitability of the location, which may be demonstrated by a resolution adopted by the municipality's governing body indicating that the intended location is appropriately located or otherwise suitable for such activities related to the cultivation, manufacturing, or dispensing of medical cannabis, cannabis products, and related supplies as will be conducted at the proposed facility.

Notwithstanding any other provision of this subsection, an application shall be disqualified from consideration unless it includes documentation demonstrating that the applicant will have final control of the premises upon approval of the application, including, but not limited to, a lease agreement, contract for sale, title, deed, or similar documentation. In addition, if the applicant will lease the premises, the application will be disqualified from

consideration unless it includes certification from the landlord that the landlord is aware that the tenant's use of the premises will involve activities related to the cultivation, manufacturing, or dispensing of medical cannabis and medical cannabis products. An application shall not be disqualified from consideration if the application does not include the materials described in subparagraph (b) or (c) of this paragraph.

(5) A community impact, social responsibility, and research statement, which shall include, but shall not be limited to, the following:

(a) a community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed entity is to be located, which shall include an economic impact plan, a description of outreach activities, and any financial assistance or discount plans the applicant will provide to qualifying patients and designated caregivers;

(b) a written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community;

(c) a written description of any research the applicant has conducted on the medical efficacy or adverse effects of cannabis use and the applicant's participation in or support of cannabis-related research and educational activities; and

(d) a written plan describing any research and development regarding the medical efficacy or adverse effects of cannabis, and any cannabis-related educational and outreach activities, which the applicant intends to conduct if issued a permit by the commission.

In evaluating the information submitted pursuant to subparagraphs (b) and (c) of this paragraph, the commission shall afford the greatest weight to responses pertaining to the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by responses pertaining to those with a 15 percent or greater ownership interest in the applicant's organization; followed by significantly involved persons in the applicant's organization; followed by other officers, directors, and current and prospective employees of the applicant who have a bona fide relationship with the applicant's organization as of the date of the application.

(6) A workforce development and job creation plan, which may include information on the applicant's history of job creation and planned job creation at the proposed facility; education, training, and resources to be made available for employees; any relevant certifications; and a diversity plan.

(7) A business and financial plan, which may include, but shall not be limited to, the following:

(a) an executive summary of the applicant's business plan;

(b) a demonstration of the applicant's financial ability to implement its business plan, which may include, but shall not be limited to, bank statements, business and individual financial statements, net worth statements, and debt and equity financing statements; and

(c) a description of the applicant's plan to comply with guidance pertaining to cannabis issued by the Financial Crimes Enforcement Network under 31 U.S.C. s.5311 et seq., the federal "Bank Secrecy Act", which may be demonstrated by submitting letters regarding the applicant's banking history from banks or credit unions that certify they are aware of the business activities of the applicant, or entities with common ownership or control with the applicant, in any state where the applicant has operated a business related to medical cannabis. For the purposes of this subparagraph, the commission shall consider only bank references involving accounts in the name of the applicant or of an entity with common ownership or control with the applicant. An applicant who does not submit the information described in this subparagraph shall not be disqualified from consideration.

(8) Whether any of the applicant's majority or controlling owners were previously approved by the commission to serve as an officer, director, principal, or key employee of an alternative treatment center, or personal use cannabis establishment, distributor, or delivery service, provided any such individual served in that capacity at the alternative treatment center for six or more months.

(9) Whether the applicant can demonstrate that its governance structure includes the involvement of a school of medicine or osteopathic medicine licensed and accredited in the United States, or a general acute care hospital, ambulatory care facility, adult day care services program, or pharmacy licensed in New Jersey, provided that:

(a) the school, hospital, facility, or pharmacy has conducted or participated in research approved by an institutional review board related to cannabis involving the use of human subjects, except in the case of an accredited school of medicine or osteopathic medicine that is located and licensed in New Jersey;

(b) the school, hospital, facility, or pharmacy holds a profit share or ownership interest in the applicant's organization of 10 percent or more, except in the case of an accredited school of medicine or osteopathic medicine that is located and licensed in New Jersey; and

(c) the school, hospital, facility, or pharmacy participates in major decision-making activities within the applicant's organization, which may be demonstrated by representation on the board of directors of the applicant's organization.

(10) The proposed composition of the applicant's medical advisory board established pursuant to section 15 of P.L.2019, c.153 (C.24:6I-7.5), if any.

(11) Whether the applicant intends to or has entered into a partnership with a prisoner re-entry program for the purpose of identifying and promoting employment opportunities at the applicant's organization for former inmates and current inmates leaving the corrections system. If so, the applicant shall provide details concerning the name of the re-entry program, the employment opportunities at the applicant's organization that will be made available to the re-entry population, and any other initiatives the applicant's organization will undertake to provide support and assistance to the re-entry population.

(12) Any other information the commission deems relevant in determining whether to grant a permit to the applicant.

e. In addition to the information to be submitted pursuant to subsections c. and d. of this section, the commission shall require all permit applicants, other than applicants for a conditional permit, or for an entity that is a microbusiness pursuant to subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1), to submit an attestation signed by a bona fide labor organization stating that the applicant has entered into a labor peace agreement with such bona fide labor organization. Except in the case of an entity holding an unconverted conditional permit, the maintenance of a labor peace agreement with a bona fide labor organization shall be an ongoing material condition of maintaining a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit. The submission of an attestation and maintenance of a labor peace agreement with a bona fide labor organization by an applicant issued a conditional permit pursuant to subsection d. of section 11 of P.L.2019, c.153 (C.24:6I-7.1.) shall be a requirement for conversion of a conditional permit into a full permit. The failure to enter into a collective bargaining agreement within 200 days after the date that a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary first opens shall result in the suspension or revocation of such permit or conditional permit.

In reviewing initial permit applications, the commission shall give priority to the following, regardless of whether there is any competition among applicants for a particular type of permit:

(1) Applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents, or is actively seeking to represent, cannabis workers in New Jersey.

(2) Applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in another state.

(3) Applicants that include a significantly involved person or persons lawfully residing in New Jersey for at least two years as of the date of the application.

(4) Applicants that submit a signed project labor agreement with a bona fide building trades labor organization, which is a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project, including labor issues and worker grievances associated with that project, for the construction or retrofit of the facilities associated with the permitted entity.

(5) Applicants that submit a signed project labor agreement with a bona fide labor organization for any other applicable project associated with the permitted entity.

As used in this subsection, "bona fide labor organization" means a labor organization of any kind or employee representation committee, group, or association, in which employees participate and which exists and is constituted for the purpose, in whole or in part, of collective bargaining or otherwise dealing with medical or personal use cannabis employers concerning grievances, labor disputes, terms or conditions of employment, including wages and rates of pay, or other mutual aid or protection in connection with employment, and may be characterized by: it being a party to one or more executed collective bargaining agreements with medical or personal use cannabis employers, in this State or another state; it having a written constitution or bylaws in the three immediately preceding years; it filing the annual financial report required of labor organizations pursuant to subsection (b) of 29 U.S.C. s.431, or it having at least one audited financial report in the three immediately preceding years; it being affiliated with any regional or national association of unions, including but not limited to state and federal labor councils; or it being a member of a national labor organization that has at least 500 general members in a majority of the 50 states of the United States. A bona fide labor organization includes a bona fide building trades labor organization.

f. In reviewing an initial permit application, unless the information is otherwise solicited by the commission in a specific application question, the commission's evaluation of the application shall be limited to the experience and qualifications of the applicant's organization, including controlling owners, any entities with common ownership or control with the applicant, those with a 15 percent or greater interest in the applicant's organization, significantly involved persons in the applicant's organization, the other officers, directors, and current or prospective employees of the applicant's organization who have a bona fide relationship with the applicant's organization as of the date of the application, and consultants and independent contractors who have a bona fide relationship with the applicant

as of the date of the application. Responses pertaining to applicants who are exempt from the criminal history record background check requirements of section 7 of P.L.2009, c.307 (C.24:6I-7) shall not be considered. Each applicant shall certify as to the status of the individuals and entities included in the application.

g. The commission shall conduct a disparity study to determine whether race-based measures should be considered when issuing permits pursuant to this section, and shall incorporate the policies, practices, protocols, standards, and criteria developed by the Office of Minority, Disabled Veterans, and Women Cannabis Business Development pursuant to section 32 of P.L.2019, c.153 (C.24:6I-25) to promote participation in the medical cannabis industry by persons from socially and economically disadvantaged communities, including promoting applications for, and the issuance of, medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits to certified minority, women's, and disabled veterans' businesses. To this end, the commission shall seek to issue at least 30 percent of the total number of new medical cannabis cultivator permits, medical cannabis manufacturer permits, and medical cannabis dispensary permits issued on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) as follows:

(1) at least 15 percent of the total number of new medical cannabis cultivator permits, medical cannabis manufacturer permits, and medical cannabis dispensary permits are issued to a qualified applicant that has been certified as a minority business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.); and

(2) at least 15 percent of the total number of new medical cannabis cultivator permits, medical cannabis manufacturer permits, and medical cannabis dispensary permits are issued to a qualified applicant that has been certified as a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.) or as a disabled-veterans' business, as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2).

In selecting among applicants who meet these criteria, the commission shall grant a higher preference to applicants with up to two of the certifications described in this subsection.

h. The commission shall give special consideration to any applicant that has entered into an agreement with an institution of higher education to create an integrated curriculum involving the cultivation, manufacturing, dispensing or delivery of medical cannabis, provided that the curriculum is approved by both the commission and the Office of the Secretary of Higher Education and the applicant agrees to maintain the integrated curriculum in perpetuity. An integrated curriculum permit shall be subject to revocation if the IC permit

holder fails to maintain or continue the integrated curriculum. In the event that, because of circumstances outside an IC permit holder's control, the IC permit holder will no longer be able to continue an integrated curriculum, the IC permit holder shall notify the commission and shall make reasonable efforts to establish a new integrated curriculum with an institution of higher education, subject to approval by the commission and the Office of the Secretary of Higher Education. If the IC permit holder is unable to establish a new integrated curriculum within six months after the date the current integrated curriculum arrangement ends, the commission shall revoke the entity's IC permit, unless the commission finds there are extraordinary circumstances that justify allowing the permit holder to retain the permit without an integrated curriculum and the commission finds that allowing the permit holder to retain the permit would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.), in which case the IC permit shall convert to a regular permit of the same type. The commission may revise the application and permit fees or other conditions for an IC permit as may be necessary to encourage applications for IC permits.

i. Application materials submitted to the commission pursuant to this section shall not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records.

j. If the commission notifies an applicant that it has performed sufficiently well on multiple applications to be awarded more than one permit, the applicant shall notify the commission, within seven business days after receiving such notice, as to which permit type it will accept. For any permit award declined by an applicant pursuant to this subsection, the commission shall, upon receiving notice from the applicant of the declination, award the permit to the applicant for that permit type who, in the determination of the commission, best satisfies the commission's criteria while meeting the commission's determination of Statewide need. If an applicant fails to notify the commission as to which permit it will accept, the commission shall have the discretion to determine which permit it will award to the applicant, based on the commission's determination of Statewide need and other applications submitted for facilities to be located in the affected regions.

k. (1) Subject to the provisions of paragraph (2) of this subsection, the provisions of this section shall not apply to any permit applications submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.).

(2) The provisions of subsection l. of this section shall not apply to any permit applications submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2021, c.252.

1. In addition to the information to be submitted pursuant to subsections c., d., and e. of this section, the commission shall require all permit applicants to submit a copy of any services agreement entered into by the applicant with third party entity, which agreement shall be subject to review as provided in subsection f. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

4. This act shall take effect immediately.

Approved October 18, 2021.

CHAPTER 253

AN ACT concerning the fabrication of certain signs and amending P.L.1963, c.150.

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

1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended as follows:

C.34:11-56.26 Definitions.

2. As used in this act:

(1) "Department" means the Department of Labor and Workforce Development of the State of New Jersey.

(2) "Locality" means any political subdivision of the State, combination of the same or parts thereof, or any geographical area or areas classified, designated and fixed by the commissioner from time to time, provided that in determining the "locality," the commissioner shall be guided by the boundary lines of political subdivisions or parts thereof, or by a consideration of the areas with respect to which it has been the practice of employers of particular crafts or trades to engage in collective bargaining with the representatives of workers in such craft or trade.

(3) "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. "Maintenance work" also means any work on a maintenance-related project that exceeds the scope of work and capabilities of in-house maintenance personnel, requires the solicitation of bids, and has an aggregate value exceeding $50,000.

(4) "Public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New

Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

(5) "Public work" means construction, reconstruction, demolition, alteration, custom fabrication or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. "Public work" shall also mean construction, reconstruction, demolition, alteration, custom fabrication or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract the property or premises is owned by the public body or:

(a) Not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and

(b) The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

(6) "Commissioner" means the Commissioner of Labor and Workforce Development or his duly authorized representatives.

(7) "Workman" or "worker" includes laborer, mechanic, skilled or semi-skilled, laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.), contractors or subcontractors engaged in custom fabrication shall not be regarded as material suppliers.

(8) "Work performed under a rehabilitation program" means work arranged by and at a State institution primarily for teaching and upgrading the skills and employment opportunities of the inmates of such institutions.

(9) "Prevailing wage" means the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workers of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done.

(10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) and the rules and regulations issued hereunder.

(11) "Prevailing wage contract threshold amount" means:

(a) In the case of any public work paid for in whole or in part out of the funds of a municipality in the State of New Jersey or done on property or premises owned by a public body or leased or to be leased by the municipality, the dollar amount established for the then current calendar year

by the commissioner through rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which amount shall be equal to $9,850 on July 1, 1994 and which amount shall be adjusted on July 1 every five calendar years thereafter in direct proportion to the rise or fall in the average of the Consumer Price Indices for Urban Wage Earners and Clerical Workers for the New York metropolitan and the Philadelphia metropolitan regions as reported by the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made; and

(b) In the case of any public work other than a public work described in paragraph (a) of this subsection, an amount equal to $2,000.

(12) "Custom fabrication" means:

(a) the fabrication of any of the following: plumbing, heating, cooling, ventilation or exhaust duct systems, mechanical insulation, or one or more signs in a project which cost a total of more than $30,000 and are part of a project upon completion; or

(b) any other fabrication which is either of components or structures pre-fabricated to specifications for a particular project of public work or of other materials finished into components without further modification for use in a project of public work or for use in a type or classification of a project of public work.

2. This act shall take effect immediately.

Approved October 18, 2021.

CHAPTER 254

AN ACT authorizing the issuance of Protect Pollinator license plates and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-27.160 Protect Pollinators license plates, applications, issuance.

1. a. Upon proper application, the Chief Administrator of the New Jersey Motor Vehicle Commission shall issue Protect Pollinators license plates for any motor vehicle owned or leased and registered in the State. In addition to

the registration number and other markings or identification otherwise prescribed by law, the license plate shall display:

(1) appropriate words or a slogan; and

(2) emblems of the State bird, the Eastern goldfinch; the State bug, the honeybee; and the State butterfly, the Black Swallowtail butterfly.

The Garden Club of New Jersey, Inc. shall design the license plates in consultation with the chief administrator, which shall include the selection of a color scheme, the appropriate words or a slogan as required pursuant to paragraph (1) of this subsection, and the emblems required in paragraph (2) of this subsection. Protect Pollinators license plates shall be subject to the provisions of chapter 3 of Title 39 of the Revised Statutes, except as hereinafter otherwise specifically provided.

b. Application for issuance of a Protect Pollinators license plate shall be made to the chief administrator on forms and in a manner prescribed by the chief administrator. In order to be deemed complete, an application shall be accompanied by a fee of $50, payable to the New Jersey Motor Vehicle Commission, which shall be in addition to the fees otherwise prescribed by law for the registration of a motor vehicle. The chief administrator shall collect annually, subsequent to the year of issuance of the Protect Pollinators license plate, a $10 fee for the license plate in addition to the fees otherwise prescribed by law for the registration of a motor vehicle. The fees required by this subsection shall be deposited in the "Protect Pollinators License Plate Fund," created pursuant to subsection c. of this section.

c. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Protect Pollinators License Plate Fund." There shall be deposited in the fund the amount collected from all license plate fees collected pursuant to subsection b. of this section, less the amounts necessary to reimburse the commission for administrative costs associated with the program. Monies deposited in the fund shall be appropriated annually to:

(1) the Conserve Wildlife Foundation of New Jersey and the "Integrated Roadside Vegetation Management Program" established pursuant to section 3 of P.L.2017, c.44 (C.27:7-42.4) in order to support efforts to protect pollinator animals in the State ; and

(2) the "New Jersey Farm to School Program" established pursuant to section 2 of P.L.2011, c.10 (C.4:10-25.2) in order to support the connection between food and pollinators and educate school children about this connection. Monies deposited in the fund shall be held in interest-bearing accounts in public depositories as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on

monies deposited in the fund, and any monies which may be appropriated or otherwise become available for the purposes of the fund, shall be credited to and deposited in the fund for use as set forth in this act.

d. Prior to the deposit of the additional fees collected pursuant to subsection b. of this section into the "Protect Pollinators License Plate Fund," amounts thereof as are necessary shall be used to reimburse the commission for all costs reasonably and actually incurred, as stipulated by the chief administrator, for:

(1) producing, issuing, renewing, and publicizing the availability of the Protect Pollinators license plates; and

(2) any computer programming changes that may be initially necessary to implement the Protect Pollinators license plate program established by this act, in an amount not to exceed $150,000.

e. The chief administrator shall annually certify to the State Treasurer the average cost per license plate incurred in the immediately preceding year by the commission in producing, issuing, renewing, and publicizing the availability of the Protect Pollinators license plates. The annual certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor. In the event that the average cost per license plate as certified by the chief administrator and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in subsection b. of this section in two consecutive fiscal years, the chief administrator may discontinue the issuance of Protect Pollinators license plates.

f. The chief administrator shall notify eligible motorists of the opportunity to obtain Protect Pollinators license plates by publicizing the availability of the license plates on the website of the commission. The Garden Club of New Jersey, Inc. may publicize the availability of Protect Pollinators license plates in any manner the Garden Club of New Jersey deems appropriate.

g. The chief administrator and the Garden Club of New Jersey, Inc. shall develop and enter into a memorandum of agreement setting forth the procedures to be followed in carrying out their respective responsibilities under this act.

h. The Garden Club of New Jersey, Inc. shall appoint a representative who shall act as a liaison between the organization and the commission. The liaison shall represent the Garden Club of New Jersey, Inc. in any and all communications with the commission regarding the Protect the Pollinators license plates established pursuant to this act.

C.39:3-27.161 Funds for license plates contributed by The Garden Club of New Jersey, Inc.; complete applications for plates; fees.

2. a. No State or other public funds shall be used by the commission for the initial cost of:

(1) producing, issuing, and publicizing the availability of Protect Pollinators license plates; or

(2) any computer programming changes which may be necessary to implement the Protect Pollinators license plate program established pursuant to this act.

b. The Garden Club of New Jersey, Inc. or other individual or entity designated by the Garden Club of New Jersey, Inc., shall contribute monies in an amount to be determined by the chief administrator, not to exceed a total of $25,000, to be used to offset the initial costs incurred by the commission for producing, issuing, and publicizing the availability of Protect Pollinators license plates, and any computer programming which may be necessary to implement the program. To further help offset the initial costs incurred by the commission for the special license plates authorized by this act, other concerned organizations and individual donors may contribute monies to the Garden Club of New Jersey, Inc., or an individual or entity designated by the Garden Club of New Jersey, Inc., for this purpose. Any amount remaining after the payment of the initial costs shall be deposited in the "Protect Pollinators License Plate Fund," established pursuant to subsection c. of section 1 of this act.

c. The commission shall not begin designing, producing, issuing, or publicizing the availability of Protect Pollinators license plates, or making any necessary programming changes, until the following requirements have been met:

(1) The Garden Club of New Jersey, Inc. or the individual or entity designated by the Garden Club of New Jersey, Inc., has provided the commission with the money necessary, as determined by the chief administrator pursuant to subsection b. of this section, to offset the initial costs incurred by the commission in establishing the Protect Pollinators license plate program; and

(2) The liaison appointed by the Garden Club of New Jersey, Inc. pursuant to subsection h. of section 1 of this act has provided the commission with not less than 500 completed applications for Protect Pollinators license plates. These applications shall constitute the initial order for Protect Pollinators license plates and shall be accompanied by a fee representing the total cost of the initial order. Such fee shall be determined by multiplying the

number of sets of license plates being ordered by the applicable initial fee for each set of license plates as set forth in subsection b. of section 1 of this act.

3. This act shall take effect immediately, but shall remain inoperable until the first day of the seventh month following the date on which the conditions set forth in paragraphs (1) and (2) of subsection c. of section 2 of this act have been satisfied. The chief administrator may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act. This act shall expire if the conditions set forth in paragraphs (1) and (2) of subsection c. of section 2 of this act are not satisfied by the last day of the 12th month following enactment.

Approved October 27, 2021.

CHAPTER 255

AN ACT concerning the transmittal of certain county ordinances and amending P.L.1972, c.154

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

1. Section 101 of P.L.1972, c.154 (C.40:41A-101) is amended to read as follows:

C.40:41A-101 Ordinances.

101. a. An ordinance shall mean any act or regulation of the board, except an expense budget or capital budget, required to be reduced to writing, published after introduction, and considered for final passage after public hearing at a meeting subsequent to the meeting at which it was introduced.

b. Except as otherwise provided by general law the procedure for the passage of ordinances shall be as follows:

(1) Every ordinance after being introduced and having passed a first reading, which first reading may be by title, shall be published in its entirety, or by title, or by title and summary, at least once in the manner provided by section 142 of P.L.1972, c.154 (C.40:41A-142), together with a notice of the introduction thereof and the time and place when and where it will be further considered for final passage, and shall consist of a clear and concise statement prepared by the clerk of the board of chosen freeholders setting forth the purpose of the ordinance, and the time and place when and where a

copy of the ordinance can be obtained without cost by any member of the general public who wants a copy of the ordinance. If there be only one such publication the same shall be at least 1 week prior to the time fixed for further consideration for final passage. If there be more than one publication, the first shall be at least 1 week prior to the time fixed for further consideration for final passage. A copy of the proposed ordinance shall also be sent by regular mail, or by electronic mail, to the clerk of each municipality in the county not less than 1 week prior to the date of hearing.

(2) At the time and place so stated in such publication, or at any time and place to which the meeting for the further consideration of the ordinance shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard concerning the ordinance. Final passage thereof shall be at least 10 days from the first reading.

(3) Upon the opening of the hearing, the ordinance shall be given a second reading, which reading may be by title, and thereafter, it may be passed by a majority of the whole number of the board, with or without amendments, or rejected. Prior to the said second reading, a copy of the ordinance shall be posted on the bulletin board or other place upon which public notices are customarily posted in the building in which the board regularly meets, and copies of the ordinance shall be made available to members of the general public who shall request such copies. If any amendment be adopted, altering the ordinance, the ordinance as so amended shall not be finally adopted until at least 1 week thereafter, and the ordinance as amended shall be read at a meeting of the board, which reading may be by title, and shall be published in its entirety, or by title, or by title and summary, together with a notice of the introduction, the time and place when and where a copy of the ordinance can be obtained without cost by any member of the general public who wants a copy of the ordinance, a clear and concise statement prepared by the clerk of the board of chosen freeholders setting forth the purpose of the ordinance, and the time and place when and where the amended ordinance will be further considered for final passage, at least 2 days prior to the time so fixed. At the time and place so fixed, or at any other meeting to which the further consideration of the amended ordinance may be adjourned, the board may proceed to pass the ordinance, as amended, or again amend it in the same manner.

(4) Upon passage, every ordinance, or the title, or the title and a summary, together with a notice of the date of passage or approval, or both, shall be published at least once in the manner provided by section 142 of P.L.1972, c.154 (C.40:41A-142).

(5) One certified copy of the full text of every ordinance so adopted shall be filed with the clerk of each municipality within the county not later than 10 days after the date of final passage.

(6) The board may enact, amend or supplement ordinances establishing, amending or supplementing a code or any parts thereof, not inconsistent with law, by reference to such code in any such ordinance and without inclusion of the text thereof in such ordinance if the code to be adopted and any related documents are printed in book form and a copy of such printed code and related documents so marked as to indicate plainly what portion thereof, if less than the whole, is intended to be adopted, is annexed to such ordinance and if such code and related documents or such portion thereof as is intended to be adopted is so described in said ordinance as to identify them and there is indicated in said description the common or trade name, if any, of such code and related documents and it is stated in the ordinance that one copy of said code and said related documents, similarly marked, have been placed on file in the office of the clerk of said board, upon the introduction of said ordinance and will remain on file there until final action is taken on said ordinance, for the use and examination of the public.

It shall not be necessary to publish any such code or related documents, so to be adopted, as part of any such ordinance notwithstanding that a printed copy thereof is annexed thereto, either before or after the final passage of such ordinance, if said printed copy is filed as aforesaid. The board of freeholders however may order the publication of said code or a synopsis in the manner provided by section 142 of P.L.1972, c.154 (C.40:41A-142) if it is deemed that such procedure will be in the public interest because of the content and importance of the provisions of the code.

If any such ordinance is adopted, the said copy of said code and related documents shall remain on file in said office, so long as said ordinance is in effect, and one certified copy shall be placed on file and shall remain on file in the office of each clerk of each municipality within the county, for the use and examination of the public so long as said ordinance is in effect and printed copies of said ordinance and said code and related documents shall be made available to citizens on request and for which a reasonable fee may be charged.

For the purpose of proof of any such ordinance or receipt thereof in evidence in all courts and places, such copy of such code and related documents, so marked and annexed to such ordinance, shall be construed to be part of said ordinance, as fully as though it had been set forth at length therein.

(7) The board may prescribe penalties for the violation of ordinances it may have authority to pass, either by imprisonment in the county jail for any

term not exceeding 90 days, or by a fine not exceeding $500.00, or both. The court before which any person is convicted of violating any such ordinance shall have power to impose any fine or term of imprisonment not exceeding the maximum fixed in such ordinance.

Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the county jail for any term not exceeding 90 days for such default.

c. No ordinance shall take effect less than 20 days after its final passage by the board and approval by the county executive, or supervisor or board chairman or president, where such approval is required, unless the board shall adopt a resolution declaring an emergency and at least two-thirds of all the

2. This act shall take effect immediately.

Approved October 27, 2021.

CHAPTER 256

AN ACT concerning the annual audit of the 2020-2021 school district fiscal year.

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

1. Notwithstanding the provisions of N.J.S.18A:23-1, N.J.S.18A:23-3, or any other provision of law to the contrary, a school district's annual audit report of the 2020-2021 school fiscal year conducted pursuant to N.J.S.18A:23-1 shall be completed not later than January 31, 2022 and submitted to the Commissioner of Education not later than February 5, 2022. Notwithstanding the provisions of this section or of any law, rule, or regulation to the contrary, a school district shall submit the Audit Summary for the 2020-2021 school year to the Department of Education not later than January 4, 2022.

2. This act shall take effect immediately.

Approved October 27, 2021.

CHAPTER 257

AN ACT concerning pharmacy benefits managers providing services within the Medicaid program and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-7ee Pharmacy benefits management services, information disclosure

1. a. Any contract or other arrangement entered into by a managed care organization, or by the Division of Medical Assistance and Health Services in the Department of Human Services, for the provision of pharmacy benefits management services under the Medicaid program shall require the pharmacy benefits manager to disclose to the department:

(1) all sources and amounts of income, payments, and financial benefits received by the pharmacy benefits manager in relation to the provision and administration of pharmacy benefits management services on behalf of the managed care organization, including, but not limited to, any pricing discounts, rebates of any kind, inflationary payments, credits, clawbacks, fees, grants, chargebacks, reimbursements, or other benefits;

(2) all ingredient costs and dispensing fees or similar payments made by the pharmacy benefits manager to any pharmacy in connection with the contract or other arrangement; and

(3) the pharmacy benefits manager's payment model for administrative fees.

b. Information disclosed by a pharmacy benefits manager to the division pursuant to subsection a. of this section shall be confidential and not be subject to public disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.), or P.L.2001, c.404 (C.47:1A-5 et al.). In addition to any other penalty provided by law, a person who is authorized to access information submitted by a pharmacy benefits manager to the division who knowingly discloses such information to any person or entity who is not authorized to access the information shall be guilty of a crime of the fourth degree and shall be subject to a civil penalty in an amount not to exceed $10,000. A civil penalty imposed under this subsection shall be collected by the director pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. As used in this section:

"Pharmacy benefits manager" means a corporation, business, or other entity, or unit within a corporation, business, or other entity, that administers prescription drug benefits on behalf of a managed care organization.

"Pharmacy benefits management services" mean the provision of any of the following services on behalf of a managed care organization: the procurement of prescription drugs at a negotiated rate for dispensation within this State; the processing of prescription drug claims; or the administration of payments related to prescription drug claims.

2. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to implement the provisions of this act.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 258

AN ACT concerning motor vehicle registration and amending R.S.39:3-4, R.S.39:3-29, and P.L.1972, c.200.

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

1. R.S.39:3-4 is amended to read as follows:

Registration of automobiles and motorcycles, application, registration certificates; expiration; issuance; violations; notification.

39:3-4. Except as hereinafter provided, every resident of this State and every nonresident whose automobile or motorcycle shall be driven in this State shall, before using the vehicle on the public highways, register the same, and an automobile or motorcycle shall not be driven unless so registered.

Registration shall be made in the following manner: An application in writing, signed by the applicant or by an agent or officer, in case the applicant is a corporation, shall be made to the chief administrator or the chief administrator's agent, on forms prepared and supplied by the chief administrator, containing the name, street address of the residence or the business of the owner, mailing address, if different from the street address of the owner's residence or business, and age of the owner, together with a description of the character of the automobile or motorcycle, including the name of the maker and the vehicle identification number, or the manufacturer's number or the number assigned by the chief administrator if

the vehicle does not have a vehicle identification number, and any other statement that may be required by the chief administrator. A post office box shall appear on the application only as part of a mailing address that is submitted by the owner, agent or officer, as the case may be, in addition to the street address of the applicant's residence or business; provided, however, the chief administrator, upon application, shall permit a person who was a victim of a violation of section 1 of P.L.1992, c.209 (C.2C:12-10), N.J.S.2C:14-2, or P.L.1991, c.261 (C.2C:25-17 et seq.), or who the chief administrator otherwise determines to have good cause, to use as a mailing address a post office box, an address other than the applicant's address or other contact point. An owner whose last address appears on the records of the commission as a post office box shall change the owner's address on the owner's application for renewal to the street address of the owner's residence or business and, if different from the owner's street address, the owner's mailing address unless the chief administrator has determined, pursuant to this section, that the owner may use a post office box, an address other than the owner's address or other contact point as a mailing address. The application shall contain the name of the insurer of the vehicle and the policy number. If the vehicle is a leased motor vehicle, the application shall make note of that fact and shall include along with the name and street address of the lessor the name, street address, and driver license number of the lessee.

Thereupon the chief administrator shall have the power to grant a registration certificate to the owner of any motor vehicle, if over 17 years of age, application for the registration having been properly made and the fee therefor paid, and the vehicle being of a type that complies with the requirements of this Title. The form and contents of the registration certificate to be issued shall be determined by the chief administrator.

If the vehicle is a leased motor vehicle, the registration certificate shall, in addition to containing the name and street address of the lessor, identify the vehicle as a leased motor vehicle. The chief administrator may send the registration certificate directly to the lessee.

The chief administrator shall maintain a record of all registration certificates issued, and of the contents thereof.

Every registration shall expire and the registration certificate thereof become void on the registrant's numerical calendar day of birth in the 12th calendar month following the calendar month in which the certificate was issued; except that the registration shall expire on the last day of the 12th calendar month following the calendar month in which the certificate was issued if the numerical calendar day of the registrant's birth does not

correspond to a numerical calendar day in that month or if the vehicle is a leased motor vehicle.

The chief administrator may, at the chief administrator's discretion, require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by him, which date shall not be sooner than three months nor later than 26 months after the date of issuance of the certificates, and the fees for the registrations, including any other fees or charges collected in connection with the registration fee, shall be fixed by the chief administrator in amounts proportionately less or greater than the fees established by law. The chief administrator may fix the expiration date for registration certificates at a date other than 12 months if the chief administrator determines that the change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause. The chief administrator may, for good cause extend a registration beyond the expiration date that appears upon the registration certificate for periods not to exceed 12 additional months. The chief administrator may extend the expiration date of a registration without payment of a proportionate fee when the chief administrator determines that the extension is necessary for good cause. If any registration is so extended, the owner shall pay upon renewal the full registration fee for the period fixed by the chief administrator as if no extension had been granted.

Notwithstanding any other provision of law to the contrary, every registration for new passenger automobiles shall expire and the registration certificate shall become void on the registrant's numerical calendar day of birth in the 48th calendar month following the calendar month in which the certificate was initially issued; except that the registration shall expire on the last day of the 48th calendar month following the calendar month in which the certificate was initially issued if the numerical calendar day of the registrant's birth does not correspond to a numerical calendar day in that month.

On and after February 1, 2005, the provisions of this paragraph shall not apply to new passenger automobiles purchased by a rental company for use as rental passenger automobiles. As used in this paragraph, "rental company" means a person engaged in the business of renting motor vehicles; and "rental passenger automobile" means a passenger automobile that is rented without a driver and used in the transportation of persons or property other than commercial freight.

If the new passenger automobile being registered is a leased passenger automobile, the registration shall expire in accordance with the term of the

lease. If the term of the lease extends beyond one or more 12-month periods by one or more months, the registration period shall be based upon the full year into which one or more of the months extend; provided, however, the registration period for a leased automobile shall not exceed 48 months.

Following the 48-month period of the initial registration of a new passenger automobile, the subsequent registration shall expire, and the registration certificate shall become void, on the registrant's numerical calendar day of birth in the 12th calendar month following the calendar month in which the certificate was next issued; except that the registration shall expire on the last day of the 12th calendar month following the calendar month in which the certificate was next issued if the numerical calendar day of the registrant's birth does not correspond to a numerical calendar day in that month.

All motorcycles for which registrations have been issued prior to the effective date of P.L.1989, c.167 and which are scheduled to expire between November 1 and March 31 shall, upon renewal, be issued registrations by the chief administrator which shall expire on a date fixed by him, but in no case shall that expiration date be earlier than April 30 nor later than October 31. The fees for the renewal of the motorcycle registrations authorized under this paragraph shall be fixed by the chief administrator in an amount proportionately less or greater than the fee established by R.S.39:3-21.

Application forms for all renewals of registrations for passenger automobiles shall be sent to the last addresses of owners of motor vehicles and motorcycles, as they appear on the records of the commission, except that the application form for a renewal of registration for a leased passenger automobile shall be sent to the last address of the lessee of the motor vehicle as it appears on the records of the commission.

A person owning or having control over any unregistered vehicle shall not permit the same to be parked or to stand on a public highway.

Any police officer is authorized to remove any unregistered vehicle from the public highway to a storage space or garage, and the expense involved in the removal and storing of the vehicle shall be borne by the owner of the vehicle, except that the expense shall be borne by the lessee of a leased vehicle.

Any person violating the provisions of this section shall be subject to a fine not exceeding $100, except that for the misstatement of any fact in the application required to be made to the chief administrator, the person making the statement or omitting the statement that the motor vehicle is to be used as a leased motor vehicle when that is the case shall be subject to the penalties provided in R.S.39:3-37.

The chief administrator may extend the expiration date of a registration certificate without payment of a proportionate fee when the chief administrator determines that the extension is necessary, appropriate or convenient to the implementation of vehicle inspection requirements. If any registration certificate is so extended, the owner shall pay upon renewal the full registration fee for the period fixed by the chief administrator as if no extension had been granted.

The New Jersey Motor Vehicle Commission shall make a reasonable effort to notify any lessor whose name and address is on file with the commission, or any other lessor the commission may determine it is necessary to notify, of the requirements of this amendatory act.

A lessor doing business in this State shall notify in writing the lessee of a motor vehicle registered pursuant to this Title of any change in its policies or procedures affecting the registration of the motor vehicle.

2. R.S.39:3-29 is amended to read as follows:

License, registration certificate and insurance identification; possession; exhibit upon request; violations; fine; defense; certain fines to Omnibus Safety Enforcement Fund.

39:3-29. The driver's license, the registration certificate of a motor vehicle, and an insurance identification card shall be in the possession of the driver or operator at all times when the driver or operator is in charge of a motor vehicle on the highways of this State.

The driver or operator shall exhibit the driver or operator's driver's license and an insurance identification card, and the holder of a registration certificate or the operator or driver of a motor vehicle for which a registration certificate has been issued, whether or not the holder, driver or operator is a resident of this State, shall also exhibit the registration certificate, when requested so to do by a police officer or judge, while in the performance of the duties of their office, and shall write the driver or operator's name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motor vehicle for which it was issued; and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motor vehicle for which it was issued.

The registration certificate or insurance identification card may be displayed or provided in either paper or electronic form. For the purposes of this section, "electronic form" means the display of images on an electronic device, such as a cellular telephone, tablet, or computer.

The use of a cellular telephone, tablet, computer, or any other electronic device to display proof of registration or insurance does not constitute consent for a police officer or judge to access any other contents on the device. Any police officer or judge presented with an electronic device pursuant to this section shall be immune from any liability resulting from damage to the device.

Any person violating this section shall be subject to a fine of $150, except that if the person is a driver or operator of an omnibus, as defined pursuant to R.S.39:1-1, the amount of the fine shall be $250. Of the amount of any such fine collected pursuant to this paragraph, $25 shall be deposited in the Uninsured Motorist Prevention Fund established by section 2 of P.L.1983, c.141 (C.39:6B-3).

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

In addition to and independent of any fine or other penalty provided for under law, the court shall impose a fine of $150 on any driver or operator of an omnibus, convicted of a violation of this section, who does not have a certificate of public convenience and necessity as required pursuant to R.S.48:4-3. The State Treasurer shall annually deposit the monies collected from the fines imposed pursuant to this paragraph to the "Omnibus Safety Enforcement Fund" established pursuant to section 4 of P.L.2007, c.40 (C.39:3-79.23). The fine described herein shall not be deemed a fine, penalty, or forfeiture pursuant to R.S.39:5-41.

3. Section 2 of P.L.1972, c.200 (C.39:3-29.1) is amended to read as follows:

C.39:3-29.1 Registration certificates, insurance identification cards; counterfeit deterrence, detection; electronic form of certificates; rules, regulations.

2. a. The Chief Administrator of the New Jersey Motor Vehicle Commission may promulgate rules and regulations concerning the issuance, design, and content of the registration certificates required by this act.

The commission may take any actions necessary to deter and detect counterfeit or fraudulent registration certificates and to provide for an electronic form for the display of registration certificates as provided in R.S.39:3-29.

b. The Commissioner of Banking and Insurance shall, after consultation with the New Jersey Motor Vehicle Commission, promulgate

rules and regulations concerning the issuance, design, and content of the insurance identification cards required by this act.

The rules and regulations shall:

(1) contain provisions designed to deter and detect counterfeit or fraudulent insurance identification cards; and

(2) provide for an electronic form for the display of insurance identification cards as provided in R.S.39:3-29.

4. The driver or operator of a motor vehicle may provide proof of registration in electronic form to any law enforcement officer, judicial officer, or other person, including an electronic image or photograph depicting the registration certificate for the motor vehicle.

5. Sections 1 through 3 of this act shall take effect on the first day of the 18th month following enactment, but the chief administrator may take any anticipatory acts in advance of that date as may be necessary for the timely implementation of this act. Section 4 of this act shall take effect immediately and shall expire on the first day of the 18th month following enactment.

Approved November 8, 2021.

CHAPTER 259

AN ACT requiring residential landlords to install covers on steam radiators, upon the request of a tenant, and supplementing P.L.1983, c.383 (C.52:27D-192 et seq.).

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

C.52:27D-198.20 Steam radiator cover installation by residential rental property owner.

1. a. Within 90 days of the receipt of a written request by a tenant, an owner of a residential rental property shall cover each steam radiator in the tenant's unit with an insulating material or cover that protects tenants, occupants, and other persons on the premises from receiving burns due to contact with the radiator.

b. The owner of a residential rental property that contains uncovered steam radiators shall provide each tenant with notice of their right to request that the landlord provide and install insulating materials or covers pursuant to subsection a. of this section. Such notice shall be provided as a rider to any written residential lease agreement and in writing at least annually. A

copy of this notice shall be maintained in a conspicuous location in the common area where notices are regularly provided to tenants.

c. An owner who leases any property subject to the requirements of subsection a. of this section in violation of the requirements of this section shall be subject to a fine of not more than $500, which may be collected and enforced by the enforcing agency by summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. A tenant, occupant, or other person on the premises who sustains an injury as a result of the failure of an owner to comply with the requirements of subsection a. of this section may bring an action in any court of competent jurisdiction for any appropriate legal or equitable relief.

2. This act shall take effect on the first day of the third month next following the date of enactment.

Approved November 8, 2021.

CHAPTER 260

AN ACT concerning temperature standards in rooming and boarding houses, dementia care homes, nursing homes, and residential health care facilities, supplementing P.L.1984, c.114 (C.26:2H-14.1 et seq.) and P.L.1985, c.48 (C.55:13C-1 et seq.), and amending various parts of the statutory law.

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

1. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to read as follows:

C.26:2H-14.3 Rules, regulations relative to air conditioning, adequate ventilation.

3. The Commissioner of Health shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act. The regulations shall require that:

a. Each health care facility included within the provisions of this act and which is not equipped with air conditioning on the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), shall provide for and operate adequate

ventilation in all areas used by patients or residents, including, but not limited to, the use of ceiling fans, wall fans or portable fans, where appropriate, so that the temperature in these areas does not exceed 81 degrees Fahrenheit, but the health care facility shall not directly assess patients or residents for the purchase or installation of the fans or other ventilating equipment.

(1) The regulations shall also provide that within two years after the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), every nursing home included within the provisions of this act, and every residential health care facility as specified in this paragraph, shall be equipped with air conditioning, except that the commissioner may grant a nursing home or residential health care facility a waiver from the air conditioning requirement to give the nursing home or residential health care facility one additional year to comply with the air conditioning requirement, for which waiver the nursing home or residential health care facility shall apply on a form and in a manner prescribed by the commissioner, if the nursing home or residential health care facility can demonstrate to the satisfaction of the commissioner that the failure to grant such a waiver would pose a serious financial hardship to the nursing home or residential health care facility. The air conditioning shall be operated so that the temperature in all areas used by patients or residents does not exceed 81 degrees Fahrenheit. The air conditioning requirement established in this subsection shall apply to a residential health care facility only: (1) upon enactment into law of legislation that increases the rate of reimbursement provided by the State under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.), which rate is certified by the Commissioner of Health to be sufficient to enable the facility to meet the costs of complying with the requirement; and (2) if the facility qualifies for funds for energy efficiency rehabilitation through the "Petroleum Overcharge Reimbursement Fund," established pursuant to P.L.1987, c.231 (C.52:18A-209 et seq.), which funds can be applied towards equipping the facility with air conditioning. A nursing home or residential health care facility shall not directly assess patients or residents for the purchase or installation of the air conditioning equipment.

(2) The regulations shall also provide that within two years after the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), every dementia care home shall be equipped with air conditioning, except that the commissioner may grant a dementia care home a waiver from the air conditioning requirement to give the dementia care home one additional year to comply with the air conditioning requirement, for which waiver the dementia care home shall apply on a form and in a manner prescribed by the commissioner, if the dementia care home can demonstrate to the satisfaction of the commissioner

that the failure to grant such a waiver would pose a serious financial hardship to that facility. The air conditioning shall be operated so that the temperature in all areas used by residents does not exceed 81 degrees Fahrenheit. A dementia care home shall not directly assess residents for the purchase or installation of the air conditioning equipment; and

b. Patients or residents are identified by predisposition, due to illness, medication or otherwise, to heat-related illness and that during a heat emergency, their body temperature, dehydration status and other symptoms of heat-related illness are monitored frequently and regularly, any anomalies are promptly reported to the attending physician, and any necessary therapeutic or palliative measures are instituted, including the provision of liquids, where required.

c. A nursing home, or a residential health care facility owned by a licensed health care facility and licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), shall not exceed the temperature limit established pursuant to this section, unless permitted by applicable regulation of the Centers for Medicare and Medicaid Services.

2. Section 2 of P.L.1989, c.173 (C.26:2H-14.4) is amended to read as follows:

C.26:2H-14.4 Air conditioning required in certain facilities.

2. a. A nursing home or residential health care facility included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.) which is constructed or expanded after the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), or a dementia care home included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.) which is constructed or expanded after the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), shall be equipped with air conditioning and heating in all areas used by patients or residents, and the air conditioning and heating shall be operated so that the temperature in these areas does not exceed 81 degrees Fahrenheit or fall under 65 degrees Fahrenheit. All areas used by patients or residents shall be maintained within a temperature range from 65 to 81 degrees Fahrenheit, except in rooms:

(1) designated for activities requiring physical exertion; or

(2) where residents can individually control the temperature in their own living units, independent from other areas.

b. A nursing home, or a residential health care facility owned by a licensed health care facility and licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), may maintain a temperature in an area used by patients or residents that does not fall within the range provided pursuant to subsection a. of this section, provided that the

temperature is within a range permitted pursuant to applicable regulation of the Centers for Medicare and Medicaid Services.

C.26:2H-14.4a Grant of waiver due to unusual events beyond control of facility.

3. The Commissioner of Health may grant a waiver to a nursing home or residential health care facility in the case of any unusual event which results from natural or unnatural causes beyond the control of the facility, including, but not limited to, the declaration of a state of emergency or disaster by the State or by the federal government, which results in the inability of the facility to maintain the temperature guidelines detailed in section 3 of P.L.1984, c.114 (C.26:2H-14.3), or section 2 of P.L.1989, c.173 (C.26:2H-14.4).

4. Section 6 of P.L.1979, c.496 (C.55:13B-6) is amended to read as follows:

C.55:13B-6 Standards of construction, operation, safety.

6. The commissioner shall establish standards to ensure that every rooming and boarding house in this State is constructed and operated in such a manner as will protect the health, safety and welfare of its residents and at the same time preserve and promote a homelike atmosphere appropriate to such facilities, including, but not limited to, standards to provide for the following:

a. Safety from fire;

b. Safety from structural, mechanical, plumbing and electrical deficiencies;

c. Adequate light and ventilation;

d. Physical security;

e. Protection from harassment, fraud and eviction without due cause;

f. Clean and reasonably comfortable surroundings;

g. Adequate personal and financial services rendered in boarding houses;

h. Disclosure of owner identification information;

i. Maintenance of orderly and sufficient financial and occupancy records;

j. Referral of residents, by the operator, to social service and health agencies for needed services;

k. Assurance that no constitutional, civil or legal right will be denied solely by reason of residence in a rooming or boarding house;

l. Reasonable access for employees of public and private agencies, and reasonable access for other citizens upon receiving the consent of the resident to be visited by them;

m. Opportunity for each resident to live with as much independence, autonomy and interaction with the surrounding community as the resident is capable of doing ;

n. (Deleted by amendment, P.L.2015, c.125)

o. An approved heating and cooling system capable of maintaining the temperature of the facility within the required range. In all areas used by residents, the operator shall maintain the rooming and boarding house at a temperature within the range of 65 through 81 degrees Fahrenheit, except in rooms:

(1) designated for activities requiring physical exertion; or

(2) where residents can individually control the temperature in their own living units, independent from other areas.

5. This act shall take effect on the first day of the sixth month next following enactment.

Approved November 8, 2021.

CHAPTER 261

AN ACT concerning student suicide prevention and supplementing chapter 6 and chapter 3B of Title 18A of the New Jersey Statutes.

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

C.18A:6-113.1 Middle school, high school student identification cards with New Jersey Suicide Prevention Hopeline contact information.

1. A public school that includes any of the grades seven through 12 and that issues student identification cards shall have printed on the back of the student identification cards the telephone number for the New Jersey Suicide Prevention Hopeline (NJ Hopeline) and contact information for a crisis text line.

C.18A:3B-73.1 Higher education student identification cards with New Jersey Suicide Prevention Hopeline contact information.

2. An institution of higher education that issues student identification cards shall have printed on the back of the student identification cards the telephone number for the New Jersey Suicide Prevention Hopeline (NJ Hopeline) and contact information for a crisis text line.

C.18A:3B-73.2 National Suicide Prevention Lifeline, provision of contact information.

3. A public school that includes any of the grades seven through 12 and that issues student identification cards, and an institution of higher education that issues student identification cards, may, in addition to the telephone number for the NJ Hopeline and contact information for a crisis text line, provide contact information for the National Suicide Prevention Lifeline, an on-campus crisis center, or any other mental health support service.

4. This act shall take effect in the first full school year or in the first full academic year, as applicable, following the date of enactment.

Approved November 8, 2021.

CHAPTER 262

AN ACT concerning cybersecurity and asset management at public community water systems and amending and supplementing P.L.2017, c.133.

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

1. Section 2 of P.L.2017, c.133 (C.58:31-2) is amended to read as follows:

C.58:31-2 Definitions relative to operation, management of public water systems.

2. As used in P.L.2017, c.133 (C.58:31-1 et seq.):

"Board" means the Board of Public Utilities.

"Cybersecurity incident" means an event occurring on or conducted through a computer network that jeopardizes the integrity, confidentiality, or availability of computers, information systems, communications systems, networks, physical or virtual infrastructure controlled by computers or information systems, or information residing thereon.

"Cybersecurity insurance policy" means an insurance policy designed to mitigate losses from cybersecurity incidents, including, but not limited to, data breaches, business interruption, and network damage.

"Department" means the Department of Environmental Protection.

"Industrial control system" means an information system used to control industrial processes such as manufacturing, product handling, production, or distribution.

"Industrial control system" includes supervisory control and data acquisition systems used to control geographically dispersed assets, and distributed control systems and smaller control systems using programmable logic controllers to control localized processes.

"Information resource" means information and related resources, such as personnel, equipment, funds, and information technology.

"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"New Jersey Cybersecurity and Communications Integration Cell" means the New Jersey Cybersecurity and Communications Integration Cell established pursuant to Executive Order No. 178 (2015) in the New Jersey Office of Homeland Security and Preparedness, or any successor entity.

"Public community water system" means the same as that term is defined in subsection l. of section 3 of P.L.1977, c.224 (C.58:12A-3).

"Public water system" means the same as the term is defined in section 3 of P.L.1977, c.224 (C.58:12A-3).

"Water purveyor" means any person that owns a public community water system with more than 500 service connections.

2. Section 4 of P.L.2017, c.133 (C.58:31-4) is amended to read as follows:

C.58:31-4 Development of cybersecurity system; exemptions.

4. a. Within 120 days after the effective date of P.L.2017, c.133 (C.58:31-1 et seq.), each water purveyor shall develop a cybersecurity program, in accordance with requirements established by the New Jersey Cybersecurity and Communications Integration Cell , as rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), that defines and implements organization accountabilities and responsibilities for cyber risk management activities, and establishes policies, plans, processes, and procedures for identifying and mitigating cyber risk to its public community water system. As part of the cybersecurity program, a water purveyor shall: identify the individual chiefly responsible for ensuring that the policies, plans processes, and procedures established pursuant to this section are executed in a timely manner; conduct risk assessments and implement appropriate controls to mitigate identified risks to the public community water system; maintain situational awareness of cyber threats and vulnerabilities to the public community water system; and create and exercise incident response and recovery plans. No later than 180 days after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), a water purveyor shall update its cybersecurity

program to conform to the requirements of section 3 of P.L.2021, c.262 (C.58:31-4.1).

A water purveyor shall submit a copy of the cybersecurity program developed pursuant to this subsection to the New Jersey Cybersecurity and Communications Integration Cell, in a form and manner as determined by the New Jersey Cybersecurity and Communications Integration Cell. A cybersecurity program submitted pursuant to this subsection shall not be considered a government record under P.L.1963, c.73 (C.47:1A-1 et seq.), and shall not be made available for public inspection.

b. Within 60 days after developing the cybersecurity program required pursuant to subsection a. of this section, each water purveyor shall join the New Jersey Cybersecurity and Communications Integration Cell and create a cybersecurity incident reporting process.

c. (Deleted by amendment, P.L.2021, c.262).

d. No later than 180 days after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), each water purveyor shall obtain a cybersecurity insurance policy that meets any applicable standards adopted by the board.

C.58:31-4.1 Update of cybersecurity program; revision; proof of compliance; audit.

3. a. In addition to the requirements of section 4 of P.L.2017, c.133 (C.58:31-4), and the requirements established by the board pursuant thereto, no later than 180 days after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), each water purveyor shall update its cybersecurity program developed pursuant to section 4 of P.L.2017, c.133 (C.58:31-4) to apply to all of the public community water system's industrial control systems, and to reasonably conform to the most recent version of one or more of the following industry-recognized cybersecurity frameworks:

(1) the Framework for Improving Critical Infrastructure Cybersecurity developed by the National Institute of Standards and Technology;

(2) the Center for Internet Security Critical Security Controls for Effective Cyber Defense; or

(3) the International Organization for Standardization and International Electrotechnical Commission 27000 family of standards for an information security management system.

b. Whenever a final revision to one or more of the frameworks listed in subsection a. of this section is published, a water purveyor whose cybersecurity program reasonably conformed to that framework shall revise its cybersecurity program to reasonably conform to the revised framework, and submit a copy of the revised cybersecurity program to the New Jersey

Cybersecurity and Communications Integration Cell, no later than 180 days after publication of the revised framework.

c. No later than one year after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), and each year thereafter, each water purveyor shall submit to the board, the department , and the New Jersey Cybersecurity and Communications Integration Cell a certification demonstrating that the water purveyor is in compliance with the requirements of this section. The certification shall be made in the form and manner as determined by the department, in consultation with the New Jersey Cybersecurity and Communications Integration Cell. The certification shall be signed by the responsible corporate officer of the public community water system, if privately held, executive director, if an authority, or mayor or chief executive officer of the municipality, if municipally owned, as applicable.

d. The New Jersey Cybersecurity and Communications Integration Cell shall cause to be audited, for compliance with the requirements of section 4 of P.L.2017, c.133 (C.58:31-4) and this section, any public community water system that fails to submit a cybersecurity program as required pursuant to subsection a. of section 4 of P.L.2017, c.133 (C.58:31-4), a revision pursuant to subsection b. of this section, or a certification pursuant to this section. Any audit shall be conducted by a qualified and independent cybersecurity company, at the water purveyor's expense. Following the audit, the water purveyor shall submit the audit and any corrective action plans derived from the audit to the New Jersey Cybersecurity and Communications Integration Cell.

e. A water purveyor shall, upon the request of the board, the department, or the New Jersey Cybersecurity and Communications Integration Cell, provide proof of compliance with the requirements of this section, in a form and manner as determined by the board, the department, or by the New Jersey Cybersecurity and Communications Integration Cell.

f. The board shall update any requirements it has established for cybersecurity programs pursuant to subsection a. of section 4 of P.L.2017, c.133 (C.58:31-4) to conform to the requirements of this section.

C.58:31-4.2 Purveyor's water report; audit.

4. a. Beginning 90 days after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), a water purveyor shall report to the New Jersey Cybersecurity and Communications Integration Cell, promptly after an employee is made aware of a cybersecurity incident, and in accordance with all applicable laws, rules , and regulations:

(1) any cybersecurity incident that results in the compromise of the confidentiality, integrity, availability, or privacy of the water purveyor's

utility billing, communications, data management, or business information systems, or the information thereon; and

(2) any cybersecurity incident against the water purveyor's industrial control system, including monitoring, operations, and centralized control systems, that adversely impact, disable, or manipulate infrastructure, resulting in loss of service, contamination of finished water, or damage to infrastructure.

b. No later than 30 days after receiving a report of a cybersecurity incident from a water purveyor pursuant to subsection a. of this section, the New Jersey Cybersecurity and Communications Integration Cell shall cause to be audited the water purveyor's cybersecurity program and any actions the water purveyor took in response to the cybersecurity incident. The audit shall identify cyber threats and vulnerabilities to the public community water system, weaknesses in the public community water system's cybersecurity program, and strategies to address those weaknesses so as to protect the public community water system from the threat of future cybersecurity incidents. Any audit shall be conducted by a qualified and independent cybersecurity company, at the water purveyor's expense. Following the audit, the water purveyor shall submit the audit and any corrective action plans derived from the audit to the New Jersey Cybersecurity and Communications Integration Cell.

5. Section 6 of P.L.2017, c.133 (C.58:31-6) is amended to read as follows:

C.58:31-6 Additional certifications.

6. a. In addition to any other certifications required pursuant to law, rule, or regulation, the responsible corporate officer of the public community water system, if privately held, executive director, if an authority, or mayor or chief executive officer of the municipality, if municipally owned, as applicable, shall be required to certify in writing each year to the department and, if applicable, the board, in a form and manner as determined by the department, that the water purveyor complies with: all federal and State drinking water regulations, including water quality sampling, testing, and reporting requirements; the hydrant and valve requirements set forth in section 3 of P.L.2017, c.133 (C.58:31-3); the notice of violation mitigation plan requirements set forth in section 5 of P.L.2017, c.133 (C.58:31-5), if applicable; and the infrastructure improvement investment required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7). A water purveyor shall post the annual certification required pursuant to this section on its Internet website, if applicable.

b. The department shall audit, or cause to be audited, for compliance with the requirements of P.L.2017, c.133 (C.58:31-7 et seq.), any public

community water system that fails to submit the certification required pursuant to subsection a. of this section in a timely manner. If the department finds that a water purveyor has made a false or misleading statement in a certification submitted pursuant to subsection a. of this section, the department shall forward the matter to the Attorney General for further investigation and, if necessary, criminal prosecution or other appropriate relief, pursuant to any applicable State or federal law, rule, or regulation.

c. The department shall annually audit, or cause to be audited, for compliance with the requirements of P.L.2017, c.133 (C.58:31-7 et seq.) a random selection of at least 10 percent of all public community water systems in the State.

d. The department may require a water purveyor to pay the cost of an audit ordered pursuant to this section.

e. This section shall not be construed to abrogate or limit the review and fiscal oversight authority granted to the Division of Local Government Services in the Department of Community Affairs by the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), or any other law.

6. Section 7 of P.L.2017, c.133 (C.58:31-7) is amended to read as follows:

C.58:31-7 Asset management plan; report.

7. a. Beginning no later than 18 months after the effective date of P.L.2017, c.133 (C.58:31-1 et seq.), every water purveyor shall implement an asset management plan designed to inspect, maintain, repair, and renew its infrastructure consistent with standards established by the American Water Works Association. The asset management plan shall include:

(1) a water main renewal program designed to achieve a 150-year replacement cycle, or other appropriate replacement cycle as determined by a detailed engineering analysis of the asset condition and estimated service lives of the water mains serving the public community water system , or by the department ;

(2) a water supply and treatment program designed to inspect, maintain, repair, renew, and upgrade wells, intakes, pumps, and treatment facilities in accordance with all federal and State regulations, standards established by the American Water Works Association, and any mitigation plan required pursuant to section 5 of P.L.2017, c.133 (C.58:31-5); and

(3) any other programs, plans, or provisions as may be required by the department pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

Each water purveyor shall dedicate adequate funds on an annual basis to address and remediate the highest priority projects as determined by its asset management plan.

All asset management plans and system condition reports shall be certified to by the licensed operator or professional engineer of the public community water system and the responsible corporate officer of the public community water system, if privately held, executive director, if an authority, or mayor or chief executive officer of the municipality, if municipally owned, as applicable. The replacement cycle shall be determined by dividing the miles of water main located in the public community water system by 150 or other appropriate demonstration set forth in the certified asset management plan prepared pursuant to this section.

b. No later than one year after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), and each year thereafter, each water purveyor shall provide to the department and the board, if applicable, a report based on its asset management plan prepared pursuant to subsection a. of this section identifying: (1) the infrastructure improvements completed in the past year and the cost of those improvements, including improvements funded by emergency and routine capital spending; (2) the infrastructure improvements generally planned to be undertaken in the next three years and the estimated cost of those improvements; and (3) the infrastructure improvements that may be required over the next 10 years and the estimated cost of those improvements. A report provided pursuant to this subsection by a municipality, county, or authority that is a water purveyor, is subject to the Local Authorities Fiscal Control Law, P.L.1983, c.313 (C.40A:5A-1 et seq.), and has a capital program extending beyond three years shall also identify infrastructure improvements to be undertaken pursuant to the asset management plan in the remaining years of the capital program, along with the actual or estimated cost of the improvements. Compliance with this subsection may be demonstrated through the submission of evidence of completion of a detailed, comprehensive planning study, facility master planning study, or other long range planning study that is intended for use in developing three- and ten-year capital improvement plans. A detailed comprehensive planning study, facility master planning study, or other long range planning study submitted pursuant to this subsection shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), and shall not be made available for public inspection. A municipal water department or municipal water authority shall also submit the report required pursuant to this subsection

to the Division of Local Government Services in the Department of Community Affairs. A water purveyor shall, upon request, provide a copy of its asset management plan to the department, the board, or the Division of Local Government Services in the Department of Community Affairs.

c. The department, the board, and the Department of Community Affairs shall create a centralized portal allowing for electronic submittal of the report required pursuant to subsection b. of this section. The lack of a centralized portal pursuant to this subsection shall not negate the requirement for a water purveyor to submit a report pursuant to subsection b. of this section.

C.58:31-8 Asset management plan revision.

7. a. In addition to the requirements of section 7 of P.L.2017, c.133 (C.58:31-7), no later than 18 months after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), each water purveyor shall revise its asset management plan developed pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) to include:

(1) a comprehensive inventory, mapping, and evaluation of the condition of the public community water system's following asset classes: transmission and distribution piping, valves, service lines, hydrants, water treatment plant facilities, and water supply facilities including wells, reservoirs, and intakes;

(2) level of service goals for the public community water system, based upon industry standards such as those established by the American Water Works Association, which may include, but need not be limited to, goals related to customer service and accountability, energy and water efficiency and conservation, water main breaks and service interruptions, and social and environmental considerations;

(3) a priority order in which the public community water system's assets, identified in the comprehensive inventory prepared pursuant to paragraph (1) of this subsection, will be repaired or replaced as part of the water purveyor's asset management plan, based on each assets' importance to the proper function of the public community water system, or business risk exposure; and

(4) a long-term funding strategy to implement the water purveyor's asset management plan, including funding sources and estimated annual expenditures to address prioritized repairs, upgrades, and treatment.

b. The department shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to implement the requirements of this section.

C.58:31-9 Penalties, remedies.

8. Any person who violates the provisions of P.L.2017, c.133 (C.58:31-1 et seq.), or any rule or regulation adopted pursuant thereto, shall be subject

to the penalties and other remedies set forth in section 10 of P.L.1977, c.224 (C.58:12A-10). No later than 18 months after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), the department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of civil administrative penalties to be applied pursuant to this section for specific violations of P.L.2017, c.133 (C.58:31-1 et seq.).

C.58:31-10 Report card publication on website.

9. No later than one year after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), and annually thereafter, the department shall develop and publish on its Internet website a report card for each water purveyor in the State, indicating the water purveyor's compliance with federal and State drinking water quality standards, its compliance with the requirements of P.L.2017, c.133 (C.58:31-1 et seq.), and any other factors the department deems appropriate. The report card shall be designed to inform the public about the overall condition of a public community water system, and the quality of water coming from the public community water system.

C.58:31-11 Report to the Governor.

10. No later than 18 months after the effective date of P.L.2021, c.262 (C.58:31-4.1 et al.), and every three years thereafter, the department shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature assessing:

a. the data submitted by public community water systems pursuant to subsections b. and c. of section 7 of P.L.2017, c.133 (C.58:31-7). The assessment shall include, but need not be limited to, an analysis of the total estimated cost of infrastructure improvements to public community water systems, Statewide, required over the next 10 years; and

b. the compliance of public community water systems with the requirements of P.L.2017, c.133 (C.58:31-1 et seq.) and the rules and regulations adopted pursuant thereto.

C.58:31-12 Rules, regulations.

11. The department and the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as are necessary to carry out the provisions of P.L.2017, c.133 (C.58:31-1 et seq.).

12. Section 3 of P.L.2017, c.133 (C.58:31-3) is amended to read as follows:

C.58:31-3 Inspections, testing by water purveyor.

3. a. Each water purveyor shall inspect each valve in its public community water system in accordance with the provisions of subsection b. of this section in order to determine (1) accessibility of the valve for operational purposes, and (2) the valve's operating condition. A water purveyor shall repair or replace any valve found to be broken or otherwise not operational.

b. Each water purveyor shall inspect each valve that is 12 or more inches in diameter at least once every four years, and shall inspect all other valves at least once every eight years, except that the requirements of this subsection shall not apply to any service connection valve or customer shut-off valve. At a minimum, each valve inspection conducted pursuant to this subsection shall include:

(1) clearing of the area around the valve to ensure full access to the valve for operating purposes;

(2) cleaning out of the valve box;

(3) dynamic testing of the valve, by opening and then closing the valve for either of the following number of turns:

(a) the number of turns recommended by the valve manufacturer to constitute a credible test; or

(b) the number of turns which constitutes 15 percent of the total number of turns necessary to completely open or completely close the valve ; and

(4) complying with any other criteria as may be required by the department pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. (1) Each water purveyor shall, once a year, test every fire hydrant in its system in order to determine the hydrant's working condition.

(2) Each water purveyor shall formulate and implement a plan for flushing every fire hydrant in the public community water system, and every dead end of a main in the public community water system. This plan for flushing may be combined with the periodic testing of fire hydrants required pursuant to paragraph (1) of this subsection.

d. Each water purveyor shall keep a record of all inspections, tests, and flushings conducted pursuant to this section for a period of at least 12 years.

e. Each water purveyor that owns, solely or jointly, a fire hydrant shall mark each hydrant with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark or code by which ownership may be readily and definitely ascertained. Each fire hydrant shall be marked with a number or symbol, or both, by which the location of the hydrant may be determined on the water purveyor's office records. The markings may be

made with a soft metal plate, plastic, or another durable material, and shall be of such size and so spaced and maintained as to be easily read.

f. Each water purveyor shall identify, to the extent possible, the geographic location of each valve and fire hydrant in its public community water system using a global positioning system based on satellite or other location technology.

13. Section 5 of P.L.2017, c.133 (C.58:31-5) is amended to read as follows:

C.58:31-5 Violations; mitigation.

5. In addition to any other requirements in law, or any rule or regulation adopted pursuant thereto, whenever a water purveyor is issued , pursuant to section 10 of P.L.1977, c.224 (C.58:12A-10) , three notices of violation for any reason or two notices of violation related to an exceedance of a maximum contaminant level within any 12-month period, the water purveyor, within 60 days after receipt of the third or second notice, as applicable, shall submit to the department a mitigation plan specifying whether the notice of violation will be addressed through operational changes or require a capital expenditure and providing a schedule for implementation of the mitigation plan. The mitigation plan shall include a report prepared by the licensed operator of the public community water system and a professional engineer licensed pursuant to P.L.1938, c.342 (C.45:8-27 et seq.) that includes a technical analysis of the notices of violation and an explanation of how the mitigation plan submitted pursuant to this section is intended to prevent a recurrence of the issue that resulted in the notice of violation. Any capital expenditures required pursuant to this section shall be incorporated into the asset management plan required pursuant to section 7 of P.L.2017, c.133 (C.58:31-7).

14. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 263

AN ACT concerning prior notification of certain local unit and public utility infrastructure projects and supplementing Title 48 of the Revised Statutes.

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

C.48:3-17.11 Definitions relative to public utility infrastructure projects.

1. As used in P.L.2021, c.263 (C.48:3-17.11 et seq.):

"Board" means the Board of Public Utilities or any successor agency.

"Emergency" means any circumstance when local utility or public utility service is interrupted or in immediate danger of being interrupted by natural causes or by any other cause or when the condition of the equipment of the local utility or public utility is in need of immediate repair to prevent injury to persons or damage to property.

"Local infrastructure project" means a project performed by a local unit or a local utility to improve a public road, street, or bridge under the jurisdiction of a local unit or local utility facilities or any work conducted in a public utility right-of-way.

"Local unit" shall have the same meaning as provided in N.J.S.40A:1-1.

"Local utility" means a sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), a utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), an entity created pursuant to the "Municipal Shared Services Energy Authority Act," P.L.2015, c.129 (C.40A:66-1 et al.), or a utility of a local unit, authority, commission, special district, or other corporate entity not regulated by the Board of Public Utilities under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water, or sewer service to a municipality or the residents thereof.

"Public utility" shall have the same meaning as provided in R.S.48:2-13.

"Public utility infrastructure project" means the construction, reconstruction, installation, demolition, restoration, or alteration of facilities under ownership or control of the public utility that requires approval by the board, but shall not include traffic control, leak surveying, snow plowing, vegetation management in or around public utility rights-of-way, mark outs, landscaping, meter work, equipment repairs, or other work occurring during an emergency.

C.48:3-17.12 Notification of infrastructure project plan to local unit, local utility service area; examination of underground utility facility.

2. a. A public utility shall notify a local unit and local utility of any public utility infrastructure project that the public utility plans to undertake within the borders of that local unit and local utility service area at least 180 days prior to initiating work on the public utility infrastructure project. The notice shall include a summary of the purpose and scope of the public utility infrastructure project, a public utility infrastructure project schedule, and a map of the public utility infrastructure project location.

b. Notwithstanding the notification requirements of subsection a. of section 3 of P.L.2021, c.263 (C.48:3-17.13), within 60 days of the receipt of the notice required pursuant to subsection a. of this section, a local unit and local utility shall examine any underground utility facility owned or operated by the local unit or local utility to the extent feasible and notify the public utility whether such underground utility facility needs repair or replacement and if the local unit or local utility intends to undertake a local infrastructure project within the scope of the public utility infrastructure project. The local unit, local utility, and public utility shall coordinate to provide timely notification of any changes to their respective project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work.

C.48:3-17.13 Notification of public utilities; examination of underground utility facility.

3. a. A local unit and local utility shall notify each public utility that provides service within the borders of a local unit and local utility service area of any local infrastructure project that the local unit or local utility plans to undertake at least 180 days prior to initiating work on the local infrastructure project. The notice shall include a summary of the purpose and scope of the local infrastructure project, a local infrastructure project schedule, and a map of the local infrastructure project location.

b. Notwithstanding the notification requirements of subsection a. of section 2 of P.L.2021, c.263 (C.48:3-17.12), within 60 days of the receipt of the notice required pursuant to subsection a. of this section, a public utility shall examine any underground utility facility owned or operated by the public utility within the borders of a local unit to the extent feasible and notify the local unit and any relevant local utility whether an underground utility facility needs repair or replacement and if the public utility intends to construct a public utility infrastructure project within the scope of the local infrastructure project. The local unit, local utility, and public utility shall coordinate to provide timely notification of any changes to their respective project plans or schedule and, when feasible, to jointly establish a timeframe for scheduled work.

C.48:3-17.14 Rules, regulations.

4. The Board of Public Utilities, in consultation with the Department of Community Affairs, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the provisions of P.L.2021, c.263 (C.48:3-17.11 et seq.).

5. This act shall take effect immediately, but shall remain inoperative for 180 days following the date of enactment.

Approved November 8, 2021.

CHAPTER 264

AN ACT concerning the disclosure of lead plumbing in residential properties and amending P.L.1999, c.76.

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

1. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read as follows:

C.56:8-19.1 Exemption from consumer fraud law, certain real estate licensees, circumstances.

1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et seq.) to the contrary, there shall be no right of recovery of punitive damages, attorney fees, or both, under section 7 of P.L.1971, c.247 (C.56:8-19), against a real estate broker, broker-salesperson or salesperson licensed under R.S.45:15-1 et seq. for the communication of any false, misleading or deceptive information provided to the real estate broker, broker-salesperson or salesperson, by or on behalf of the seller of real estate located in New Jersey, if the real estate broker, broker-salesperson or salesperson demonstrates that he:

a. Had no actual knowledge of the false, misleading or deceptive character of the information; and

b. Made a reasonable and diligent inquiry to ascertain whether the information is of a false, misleading or deceptive character. For purposes of this section, communications by a real estate broker, broker-salesperson or salesperson which shall be deemed to satisfy the requirements of a "reasonable and diligent inquiry" include, but shall not be limited to, communications which disclose information:

(1) provided in a report or upon a representation by a person, licensed or certified by the State of New Jersey, including, but not limited to, an appraiser, home inspector, plumber or electrical contractor, or an unlicensed home inspector until December 30, 2005, of a particular physical condition pertaining to the real estate derived from inspection of the real estate by that person;

(2) provided in a report or upon a representation by any governmental official or employee, if the particular information of a physical condition is

likely to be within the knowledge of that governmental official or employee; or

(3) that the real estate broker, broker-salesperson or salesperson obtained from the seller in a property condition disclosure statement, which form shall comply with regulations promulgated by the director in consultation with the New Jersey Real Estate Commission, provided that the real estate broker, broker-salesperson or salesperson informed the buyer that the seller is the source of the information and that, prior to making that communication to the buyer, the real estate broker, broker-salesperson or salesperson visually inspected the property with reasonable diligence to ascertain the accuracy of the information disclosed by the seller. In addition to any other question as the director shall deem necessary, the property condition disclosure statement shall include a question specifically concerning the presence of lead plumbing, including but not limited to any service line, piping materials, fixtures, and solder, in the residential property.

Nothing in this section shall be interpreted to affect the obligations of a real estate broker, broker-salesperson or salesperson pursuant to the "New Residential Construction Off-Site Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or regulation.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 265

AN ACT concerning drinking water testing and supplementing P.L.1977, c.224 (C.58:12A-1 et seq.).

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

C.58:12A-12.7 Definitions relative to drinking water testing.

1. As used in this act:

"Copper action level" means the standard for copper in drinking water established by the United States Environmental Protection Agency, or a more stringent standard adopted by the department pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.).

"Customer" means a residential or commercial customer of record and, if known to the public water system, any residential tenant of a multifamily

residence having two or more units where the landlord of that residence is a non-residential customer of record. "Customer" shall include all schools, daycare centers, and facilities serving young children, all public and private hospitals, medical clinics, and doctor's offices serving pregnant women and young children, all local health and welfare agencies in the public water system's service area, and the offices of the chief executive officer of each municipality in the public water system's service area.

"Department" means the Department of Environmental Protection.

"Landlord" means the same as that term is defined in section 2 of P.L.1975, c.310 (C.46:8-44).

"Lead action level" means the standard for lead in drinking water established by the United States Environmental Protection Agency, or a more stringent standard adopted by the department pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.).

"Lead service line" means a water supply connection that is made of, or lined with a material consisting of, lead and connects a water main to a building inlet. A lead pigtail, lead gooseneck, or other lead fitting shall be considered a lead service line, regardless of the service line material. A galvanized service line or a service line of unknown material shall be considered a lead service line. A lead service line may be owned by a public water system, a property owner, or both.

"Partial service line replacement" means the replacement of some, but not all, of the lead service line, including any portion of the pipe connecting a water main to an individual water meter or service connection.

C.58:12A-12.8 Water testing request by customer.

2. a. (1) A public water system that exceeds the lead action level or the copper action level shall, upon request by a customer, test the customer's drinking water for the presence of lead and copper, whichever level was exceeded, for the duration of the action level exceedance, using a laboratory certified for that purpose by the department. Within 60 days after the public water system is deemed not to exceed the lead action level or the copper action level, a public water system shall, upon request by a customer, test the customer's drinking water for the presence of lead and copper. If a test shows that the lead action level was exceeded, the public water system shall, upon request by a customer, test the customer's drinking water every 60 days for the presence of lead until the public water system is deemed not to exceed the lead action level or until two consecutive tests show that the lead action level was not exceeded.

(2) The results of every test authorized pursuant to this subsection shall be provided to the customer.

(3) When a landlord receives the results of test provided pursuant to paragraph (2) of this subsection, the landlord shall:

(a) distribute, by any means including by electronic mail, the notice of the results as soon as practicable, but no later than three business days after receipt, to every tenant who has entered into a lease agreement with the landlord and whose dwelling unit is served by the public water system; and

(b) post the notice of the results, as soon as practicable, but no later than three business days after receipt, in a prominent location at the entrance of each rental premises that is owned by the landlord and served by the public water system, except that this requirement shall not apply in the case of single-family dwellings that do not have a common area.The requirements of this paragraph shall not apply to a landlord when a tenant is a direct customer of the public water system and is billed directly by the public water system.

b. A customer who requests a test pursuant to this section shall not be charged a fee by the public water system for the test. A public water system that is a "public utility," as defined in R.S.48:2-13, and that is regulated by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, may petition the board to include in the public water system's rate base the reasonable costs of testing it provides to customers pursuant to this section.

c. A public water system that exceeds the lead action level or the copper action level shall include a notification on each customer's water bill, which clearly states the availability of water testing pursuant to this section. If a landlord receives a notification under this subsection, the landlord shall distribute and post the notification and any relevant information to every tenant who has entered into a lease agreement with the landlord and whose dwelling unit is served by the public water system in the same manner as provided in paragraph (2) of subsection a. of this section.

C.58:12A-12.9 Drinking water test following replacement of lead service line.

3. a. A public water system that carries out a partial service line replacement of a lead service line serving a customer shall, upon receiving a request no later than six months after the completion of the replacement, test the customer's drinking water for the presence of lead, using a laboratory that has been certified for that purpose by the department. The results of the test shall be provided to the customer and to the public water system.

b. A customer who requests a test pursuant to this section shall not be charged a fee by the public water system for this test. A public water system that is a "public utility," as defined in R.S.48:2-13, and that is regulated by

the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, may petition the board to include in the public water system's rate base the reasonable costs of testing it provides to customers pursuant to this section.

c. A public water system that carries out a partial service line replacement of a lead service line serving a customer shall include a notification on the customer's water bill, which clearly states the availability of water testing pursuant to subsection a. of this section.

d. If a test carried out on a property pursuant to this section reveals that the water exceeds the lead action level, the public water system shall provide a written notice by mail of this fact to the chief executive of the municipality in which the property is located and all local health agencies in the municipality in which the property is located.

4. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 266

AN ACT concerning paint and coating removal products that contain methylene chloride and supplementing Title 24 of the Revised Statutes.

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

C.24:14B-1 Sale of paint or coating removal product containing methylene chloride; conditions, violations, penalties.

1. a. A person shall not sell or offer for sale in the State any paint or coating removal product that contains methylene chloride (dichloromethane) except as provided in subsection b. of this section.

b. A person may sell a paint or coating removal product that contains methylene chloride (dichloromethane) to a person who can demonstrate to the seller that the product will be used only by persons with safety equipment, training on the use of that equipment, and proper handling instructions for methylene chloride consistent with the requirements of 29 C.F.R. s.1910.1052.

c. A person who violates this section shall be liable to a civil penalty of up to $1,000 for each violation, to be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute a separate and distinct offense. The

municipal court and the Superior Court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999." The Department of Health or any local health agency may institute a civil action for injunctive relief to enforce this act and to prevent a violation of its provisions, and the court may proceed in the action in a summary manner. Nothing in this act shall be construed to impose liability on any news outlet that accepts or publishes advertising for any product that would otherwise be subject to the provisions of this section.

2. This act shall take effect one year after the date of enactment.

Approved November 8, 2021.

CHAPTER 267

AN ACT concerning the acquisition of alternative fuel automotive vehicles and amending N.J.S.40A:2-22.

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

1. N.J.S.40A:2-22 is amended to read as follows:

Maximum bond terms.

40A:2-22. The governing body of the local unit shall determine the period of usefulness of any purpose according to its reasonable life computed from the date of the bonds, which period shall not be greater than the following:

a. Buildings and structures.

1. Bridges, including retaining walls and approaches, or permanent structures of brick, stone, concrete or metal, or similar durable construction, 30 years.

2. Buildings, including the original furnishings and equipment therefor:

Class A: A building, of which all walls, floors, partitions, stairs and roof are wholly of incombustible material, except the window frames, doors, top flooring and wooden handrails on the stairs, 40 years;

Class B: A building, the outer walls of which are wholly of incombustible material, except the window frames and doors, 30 years;

Class C: A building which does not meet the requirements of Class A or Class B, 20 years.

3. Buildings or structures acquired substantially reconstructed or additions thereto, one-half the period fixed in this subsection for such buildings or structures.

4. Additional furnishings, five years.

b. Marine improvements.

1. Harbor improvements, docks or marine terminals, 40 years.

2. Dikes, bulkheads, jetties or similar devices of stone, concrete or metal, 15 years; of wood or partly of wood, 10 years.

c. Additional equipment and machinery.

1. Additional or replacement equipment and machinery, 15 years.

2. Voting machines, 15 years.

3. Information technology and telecommunications equipment, 7 years, except that for items with a unit cost of less than $5,000, 5 years.

d. Real property.

1. Acquisition for any public purpose of lands or riparian rights, or both, and the original dredging, grading, draining or planting thereof, 40 years.

2. Improvement of airport, cemetery, golf course, park, playground, 15 years.

3. Stadia of concrete or other incombustible materials, 20 years.

e. Streets or thoroughfares.

1. Elimination of grade crossings, 35 years.

2. Streets or roads:

Class A: Rigid pavement. A pavement of not less than eight inches of cement concrete or a six-inch cement concrete base with not less than three-inch bituminous concrete surface course, or equivalent wearing surface, 20 years.

Flexible pavement. A pavement not less than 10 inches in depth consisting of five-inch macadam base, three-inch modified penetration macadam and three-inch bituminous concrete surface course or other pavements of equivalent strength, in accordance with the findings of the American Association of State Highway Officials (AASHO) Road Test, 20 years.

Class B: Mixed surface-treated road. An eight-inch surface of gravel, stone or other selected material under partial control mixed with cement or lime and fly ash, six inches in compacted thickness with bituminous surface treatment and cover, 10 years.

Bituminous penetration road. A five-inch gravel or stone base course and a three-inch course bound with a bituminous or equivalent binder, 10 years.

Class C: Mixed bituminous road. An eight-inch surface of gravel, stone, or other selected material under partial control mixed with bituminous material one inch or more in compacted thickness, five years.

Penetration macadam road. A road of sand, gravel or water-bound macadam, or surfacing with penetration macadam, five years.

3. Sidewalks, curbs and gutters of stone, concrete or brick, 10 years.

The period of usefulness in this subsection shall apply to construction and reconstruction of streets and thoroughfares.

f. Utilities and municipal systems.

1. Sewerage system, whether sanitary or storm water, water supply or distribution system, 40 years.

2. Electric light, power or gas systems, garbage, refuse or ashes incinerator or disposal plant, 25 years.

3. Communication and signal systems, 10 years.

4. Service connections to publicly-owned gas, water or sewerage systems from the service main in the street to the curb or property lines where not part of original installation, five years.

5. Service connections to publicly-owned water systems, from the distribution main onto privately-owned real property and into the privately-owned structure, for the purpose of replacing residential, commercial, and institutional lead service lines, 30 years.

g. Vehicles and apparatus:

1. Fire engines, apparatus and equipment, when purchased new, but not fire equipment purchased separately, 10 years.

2. Automotive vehicles, including original apparatus and equipment (other than passenger cars and station wagons), when purchased new, five years.

3. Major repairs, reconditioning or overhaul of fire engines and apparatus, ambulances, rescue vehicles, and similar public safety vehicles (other than passenger cars and station wagons) which may reasonably be expected to extend for at least five years the period of usefulness thereof, five years.

4. Alternative fuel automotive vehicles, including but not limited to, electric vehicles, plug-in hybrid vehicles, hydrogen fuel cell vehicles, natural gas vehicles, and propane vehicles, when purchased new, five years.

h. The closure of a sanitary landfill facility utilized, owned or operated by a county or municipality, 15 years; provided that the closure has been approved by the Board of Public Utilities and the Department of Environmental Protection. For the purposes of this subsection "closure" means all activities associated with the design, purchase or construction of all measures required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize or monitor pollution or health hazards resulting from sanitary landfill facilities subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the costs of the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors

and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

i. (Deleted by amendment, P.L.2007, c.62.)

j. The prefunding of a claims account for environmental liability claims by an environmental impairment liability insurance pool pursuant to P.L.1993, c.269 (C.40A:10-38.1 et al.), 20 years.

k. As used in this section:

"Alternative fuel automotive vehicle" means any passenger car, station wagon, or other motor vehicle that is not solely propelled by gasoline or diesel fuel.

"Electric vehicle" means any passenger car, station wagon, or other motor vehicle that is propelled solely by an electric motor or energy storage device.

"Hydrogen fuel cell vehicle" means any passenger car, station wagon, or other motor vehicle that is propelled by power derived from one or more cells that convert chemical energy directly into electricity by combining oxygen with hydrogen fuel.

"Plug-in hybrid vehicle" means any passenger car, station wagon, or other motor vehicle that can be charged from a source of electricity external to the vehicle through an electric plug, but which is not solely powered by electricity.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 268

AN ACT concerning disclosure of certain information prior to the sale of real estate and amending P.L.1999, c.76.

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

1. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read as follows:

C.56:8-19.1 Exemption from consumer fraud law, certain real estate licensees, circumstances.

1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et seq.) to the contrary, there shall be no right of recovery against a real estate broker, broker-salesperson or salesperson licensed under R.S.45:15-1 et seq. for the communication of any false, misleading or deceptive information provided to the real estate broker, broker-salesperson or salesperson, regarding real

estate located in New Jersey, if the real estate broker, broker-salesperson or salesperson demonstrates that he:

a. Had no actual knowledge of the false, misleading or deceptive character of the information; and

b. Made a reasonable and diligent inquiry to ascertain whether the information is of a false, misleading or deceptive character. For purposes of this section, communications by a real estate broker, broker-salesperson or salesperson which shall be deemed to satisfy the requirements of a "reasonable and diligent inquiry" include, but shall not be limited to, communications which disclose information:

(1) provided in a report or upon a representation by a person, licensed or certified by the State of New Jersey, including, but not limited to, an appraiser, home inspector, plumber or electrical contractor, or an unlicensed home inspector until December 30, 2005, of a particular physical condition pertaining to the real estate derived from inspection of the real estate by that person;

(2) provided in a report or upon a representation by any governmental official or employee, if the particular information of a physical condition is likely to be within the knowledge of that governmental official or employee; or

(3) that the real estate broker, broker-salesperson or salesperson obtained from the seller in a property condition disclosure statement, which form shall comply with regulations promulgated by the director in consultation with the New Jersey Real Estate Commission, provided that the real estate broker, broker-salesperson or salesperson informed the buyer that the seller is the source of the information and that, prior to making that communication to the buyer, the real estate broker, broker-salesperson or salesperson visually inspected the property with reasonable diligence to ascertain the accuracy of the information disclosed by the seller. In addition to any other question as the director shall deem necessary, the property condition disclosure statement shall include a question specifically concerning the presence of lead plumbing, including but not limited to any service line, piping materials, fixtures, and solder, in the residential property.

Nothing in this section shall be interpreted to affect the obligations of a real estate broker, broker-salesperson or salesperson pursuant to the "New Residential Construction Off-Site Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or regulation.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 269

AN ACT concerning information to be provided to tenants of multiple dwellings and supplementing P.L.1967, c.76 (C.55:13A-1 et seq.).

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

C.55:13A-7.19 Posting of emergency contact information, instructions on accessing comprehensive social services information in tenant-occupied multiple dwelling.

1. a. The following information shall be posted in at least one conspicuous area, where the information is most likely to be viewed by tenants, of a tenant-occupied multiple dwelling and on the Internet website of any management company that manages a tenant-occupied multiple dwelling:

(1) emergency contact instructions, and the name, address, and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space, in accordance with the landlord registration requirements set forth in subsection f. of section 2 of P.L.1974, c.50 (C.46:8-28); and

(2) instructions on how to access and use the comprehensive social services information toll-free telephone hotline, established pursuant to section 1 of P.L.1991, c.542 (C.30:1-1.1).

b. The following information shall be contained in a printed notice, conspicuously set forth in prominent boldface type, in every lease offered to a tenant in a multiple dwelling:

(1) the Internet website address of the management company that manages the multiple dwelling; and

(2) instructions on how to access and use the comprehensive social services information toll-free telephone hotline, established pursuant to section 1 of P.L.1991, c.542 (C.30:1-1.1).

c. The information provided to tenants in accordance with subsections a. and b. of this section shall be made available in English and Spanish.

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

Approved November 8, 2021.

CHAPTER 270

AN ACT authorizing the imposition of a fee for connection to a municipal electric distribution system, supplementing chapter 62 of Title 40 of the Revised Statutes, and amending R.S.40:62-14.

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

C.40:62-13.2 Connection fee imposed.

1. In addition to rates, rents, or charges, the municipal governing body may impose a separate charge in the nature of a connection fee upon the owner or occupant of the property being connected to the municipal electric distribution system. The connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection plus an amount representing a fair payment towards the cost of the system and computed in the following manner:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by the municipality to defray the capital cost of developing the system as of the end of the immediately preceding budget year shall be added to all capital expenditures made by a municipality not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding budget year;

b. Any gifts, contributions or subsidies to the municipality received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the municipality by a public entity under a service agreement or service contract which is not repaid to the public entity by the municipality, shall then be subtracted;

c. The remainder shall be divided by the total number of service units served by the municipality at the end of the immediately preceding budget year, and the results shall then be apportioned to each new customer according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily electric usage for the connector shall be divided by the average daily electric usage for the average single family residence in the municipality to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each budget year, after a public hearing is held. The revised connection fee may be imposed upon those who subsequently connect to the system in that budget year.

The combination of the connection fee and the rates, rents, or charges for supplying electricity shall be such that the revenues derived shall be adequate to pay the expenses of operation and maintenance of the electric distribution system, including improvements, extensions, enlargements and replacements to the electric distribution system, reserves, insurance, principal and interest on any bonds, and to maintain reserves or sinking funds therefor as may be required under the bond covenants or any contracts, or as may be deemed necessary or desirable.

2. R.S.40:62-14 is amended to read as follows:

Rents a lien; collection, connection fees, and enforcement.

40:62-14. The rates, rents, connections fees, or charges shall remain, until paid, municipal liens against the property and premises where such light, heat or power is furnished, and shall draw interest at the rate of seven per cent per annum from and after the time when they shall become due, and shall, in addition to all other remedies, be collectible in the same manner as arrearages of taxes.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 271

AN ACT concerning labor contractors and supplementing Title 34 of the Revised Statutes.

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

C.34:8C-1 Definitions relative to labor contracts.

1. As used in this act:

"Client employer" means a business entity in the construction industry, regardless of its form, that obtains or is provided workers, directly from a labor contractor or indirectly from a subcontractor, to perform labor or services in the construction industry and within its usual course of business, but does not include a client employer employing workers pursuant to a collective bargaining agreement.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Labor contractor" means any individual, consulting firm, or other entity that supplies, either directly or indirectly, a client employer with workers to perform labor or services in the construction industry and within the client employer's usual course of business, except that "labor contractor" does not include a contractor employing workers pursuant to a collective bargaining agreement, a bona fide labor organization or apprenticeship program, or a hiring hall operated pursuant to a collective bargaining agreement.

"Usual course of business" means the regular and customary work of a business, performed within or upon the premises or worksite of the client employer, or any other place of business of the client employer for which services or labor are performed.

C.34:8C-2 Responsibilities of labor contractor; certifications.

2. a. Any labor contractor that provides workers to a client employer in the construction industry shall:

(1) certify that the labor contractor has not charged recruitment fees to the workers;

(2) certify that the contractor is in compliance with all State and federal labor laws and regulations applicable to the contractor, including laws concerning wages, unemployment and temporary disability insurance, workers' compensation insurance, workplace safety and health, and the payment of payroll taxes; and

(3) certify that the owner or owners, and any employee of the labor contractor entity engaged in providing workers to client employers, have had criminal background checks in compliance with standards promulgated by the commissioner.

b. All certifications required by this act shall, in compliance with standards promulgated by the commissioner, be kept in written form on file by the contractor for not less than three years after the period of time to which they apply and be provided to the commissioner upon request, and provided to any client employer to whom the contractor provides workers at the time that the workers are provided. The client employer shall also keep the written certifications on file for a period of not less than three years after the period to which they apply and provide them to the commissioner upon request.

C.34:8C-3 Violations, penalties.

3. Any labor contractor or client employer who violates this act shall be subject to a civil penalty in an amount not to exceed $1,000 per worker

supplied to a client employer by the labor contractor for the first violation, $5,000 per worker supplied to a client employer by the labor contractor for the second violation and $10,000 per worker supplied to a client employer by the labor contractor for each subsequent violation, collectible by the commissioner in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Each worker that a labor contractor supplies to a client employer without complying with the certification requirements of this act shall constitute a separate violation. Each worker that a client employer obtains from a labor contractor without obtaining certification from the contractor as required by this act shall constitute a separate violation.

4. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 272

AN ACT concerning cosmetic products that have been tested on animals and supplementing Title 4 of the Revised Statutes.

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

C.4:22-61 Definitions relative to cosmetic development.

1. a. For the purposes of this section:

"Animal test" means the internal or external application of a cosmetic, or any ingredient thereof, to a body part of a live, nonhuman vertebrate.

"Cosmetic" means the same as the term is defined in the "Federal Food, Drug, and Cosmetic Act" (21 U.S.C. s.321(i)).

"Ingredient" means any component of a cosmetic as defined by 21 C.F.R. 700.3.

"Manufacturer" means any person whose name appears on the label of a cosmetic product pursuant to the requirements of 21 C.F.R. 701.12.

"Supplier" means any entity that supplies, directly or through a third party, any ingredient used in the formulation of a manufacturer's cosmetic.

b. No manufacturer shall sell or offer for sale in the State any cosmetic that was developed or manufactured using an animal test, if the test was conducted or contracted by the manufacturer or any supplier of the manufacturer on or after the effective date of P.L.2021, c.272 (C.4:22-61).

c. The prohibitions in subsection b. of this section do not apply to cosmetics developed or manufactured using an animal test if:

(1) The animal test is required by a federal or State regulatory authority and:

(a) the ingredient that requires an animal test is in wide use and cannot be replaced by another ingredient,

(b) a specific human health problem is associated with the ingredient and the need to conduct an animal test on the ingredient is justified and supported by a research protocol, and

(c) there is no non-animal test method or strategy that is accepted by the relevant federal or State regulatory authority as a means to gather the relevant data;

(2) The animal test is conducted outside of the United States to comply with a requirement of a foreign regulatory authority, if no evidence derived from the test is relied upon to substantiate the safety of the cosmetic pursuant to federal or State regulations;

(3) The animal test is conducted on a product or ingredient subject to the requirements of chapter V of the federal "Food, Drug, and Cosmetic Act," 21 U.S.C. s.351 et seq.; or

(4) The animal test is conducted for non-cosmetic purposes pursuant to a requirement of a federal, State, or foreign regulatory authority. No evidence derived from animal testing after the effective date of P.L.2021, c.272 (C.4:22-61) may be relied upon to establish the safety of a cosmetic pursuant to federal or State regulation unless:

(a) there is no non-animal method or strategy recognized by any federal agency or the Organisation for Economic Co-operation and Development for the relevant safety endpoints for the ingredient;

(b) there is documented evidence of the non-cosmetic intent of the test; and

(c) there is a history of use of the ingredient outside of cosmetics at least one year prior to the reliance on the data.

d. The provisions of this section shall not apply to animal testing conducted on an ingredient or cosmetic if the testing took place prior to the effective date of P.L.2021, c.272 (C.4:22-61). This section shall not prevent a manufacturer from reviewing, assessing, or retaining data resulting from animal testing.

e. Each sale or offer for sale made by a manufacturer in violation of this section shall be subject to a penalty of up to $1,000 , to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense. The director of the Division of

Consumer Affairs in the Department of Law and Public Safety may enforce the provisions of this section. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999."

f. The Division of Consumer Affairs may institute a civil action for injunctive relief to enforce this act and to prohibit and prevent a violation of this act, and the court may proceed in the action in a summary manner.

g. Nothing in this act shall be construed to impose liability on news media that accept or publish advertising that may fall within the scope of the statute.

2. This act shall take effect on the first day of the fourth month next following the date of enactment.

Approved November 8, 2021.

CHAPTER 273

AN ACT establishing the Multigenerational Family Housing Continuity Commission, supplementing Title 52 of the Revised Statutes, and amending P.L.1985, c.222.

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

C.52:27D-329.20 Multigenerational Family Housing Continuity Commission.

1. a. The Multigenerational Family Housing Continuity Commission is created and established in the Executive Branch of the State Government. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Community Affairs, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department except as expressly authorized under P.L.2021, c.273 (C.52:27D-329.20 et al.). The commission shall consist of nine members as follows:

(1) The Commissioner of Community Affairs, and the Commissioner of Human Services, or their designees, each of whom shall be nonvoting, ex-officio members of the commission.

(2) Seven public members shall be appointed by the Governor with the advice and consent of the Senate.

b. The Governor shall designate a public member to preside over the commission until a chair and vice-chair are elected by the members of the

commission. The commission shall hold an organizational meeting within 30 days of the appointment of a majority of its authorized membership.

c. (1) Each public member of the commission shall serve for a term of three years, except that of the initial members so appointed: two members shall serve for terms of one year; three members shall serve for terms of two years; and the remaining appointees shall serve for terms of three years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

(2) The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties. Each member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

d. The commission shall elect annually a chair and vice-chair from among the public members of the commission, who shall serve for one year and until a successor is elected.

e. Four of the voting members of the commission shall constitute a quorum and a vote of the majority of the members present shall be necessary for any action taken by the commission.

f. The duties of the commission shall be as follows:

(1) To prepare and adopt recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas.

(2) To hold such public hearings and other activities as may be desirable to ensure adequate public input into the preparation of recommendations, and increase public awareness of the strategies and activities contained in the recommendations.

g. The department shall provide such staff services as may be needed for the commission to carry out its responsibilities, including assembly of necessary information and statistics, and preparation of draft reports, analyses, and recommendations.

h. The commission shall report annually to the Governor and to each house of the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-

19.1), its activities, as well as its findings and recommendations, if any, for State and local government.

i. As used in this section:

"Commission" means the Multigenerational Family Housing Continuity Commission.

"Department" means the Department of Community Affairs.

2. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to read as follows:

C.52:27D-310 Essential components of municipality's housing element.

10. A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing, and shall contain at least:

a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;

b. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;

c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing;

f. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and

moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing; and

g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20).

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 274

AN ACT concerning discriminatory restrictive covenants in deeds and supplementing Title 46 of the Revised Statutes.

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

C.46:15-15 Findings, declarations regarding discriminatory restrictive covenants in deeds.

1. The Legislature finds and declares:

a. Restrictive covenants in deeds for real property that establish certain restrictions on the ownership or use of real property are prohibited by sections 4 and 11 of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-4 and C.10:5-12), including restrictions on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, liability for service in the Armed Forces of the United States, nationality, sex, gender identity or expression, or source of lawful income used for rental or mortgage payments.

b. While these forms of restrictive covenants are unlawful and therefore unenforceable, no State law currently exists that would require an unlawful and unenforceable restrictive covenant that currently exists in a deed for real property to be removed. Unsuspecting homeowners or potential home buyers who encounter restrictive language in a deed and do not understand the intricacies of the "Law Against Discrimination" may be discouraged from buying a home or continuing to reside in a home for which

the ownership document, the deed, contains this language. Furthermore, a person who has purchased a home without realizing that such language is contained in the deed may feel shocked and upset after reading the deed.

c. Allowing this type of language to continue to be contained in a legal document recorded by a governmental entity of the State of New Jersey, either the county clerk or the county register of deeds and mortgages, is a reminder of a hurtful and shameful national legacy that has been outlawed by the United States Congress, and by the New Jersey Legislature through the "Law Against Discrimination."

d. The Virginia Legislature recently enacted a law prohibiting the recording of a deed after July 1, 2020 that references the specific portion of a restrictive covenant purporting to restrict the ownership or use of the property as prohibited under the Virginia Fair Housing Law. The Virginia law also provides a property owner the ability to legally remove such an unenforceable restrictive covenant from their deed.

e. The New Jersey Legislature has reviewed this Virginia law and has determined that such a law shall be enacted in this State in furtherance of the Legislature's continuing efforts to ensure that the hateful and hurtful legacy embodied in many land transactions is forever removed from State land deeds.

C.46:15-16 Actions regarding certain deeds with restrictive covenant references.

2. A deed recorded on or after January 1, 2022 shall not contain a reference to the specific portion of a restrictive covenant purporting to restrict the ownership or use of real property as prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12). A county clerk or a register of deeds and mortgages shall refuse to accept any deed submitted for recordation that references the specific portion of any such restrictive covenant. An attorney or title company preparing or submitting a deed for recordation shall ensure that the specific portion of such a restrictive covenant is not specifically referenced in the deed prior to the deed being submitted for recordation. A deed may include a general provision that states that the deed is subject to any and all covenants of record; however, such provisions shall not apply to the specific portion of a restrictive covenant purporting to restrict the ownership or use of the property as prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12).

Any deed that is recorded in the land records on or after January 1, 2022 that mistakenly contains such a restrictive covenant shall nevertheless constitute a valid transfer of real property.

C.46:15-17 "Certificate of Release of Certain Prohibited Covenants".

3. A restrictive covenant prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12) may be released by the owner of the real property subject to the restrictive covenant by recording a "Certificate of Release of Certain Prohibited Covenants." The real property owner may record such a certificate prior to recordation of a deed conveying real property to a purchaser, or when a real property owner discovers that such a prohibited covenant exists and chooses to affirmatively release it. The form of the certificate shall be promulgated by the Department of Community Affairs and shall be available at the county office, or on the Internet website, of the county clerk or register of deeds and mortgages, as appropriate to the county in which the real property is located, and shall also be available on the Internet website of the Department of Community Affairs. There shall be no filing fee, or any other fee, charged to the owner of a real property for the filing of this certificate.

The certificate promulgated by the Department of Community Affairs shall conform substantially to the following "Certificate of Release of Certain Prohibited Covenants" format:

CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS

County of Record: _____
Date of Deed Containing Prohibited Covenant: _____
Deed Book: _____ Page: _____
Name(s) of Grantor(s): _____
Name(s) of Current Owner(s): _____
Real Property Description: _____
Brief Description of Prohibited Covenant: _____

The covenant contained in the above-mentioned deed is released from the above-described real property to the extent that it contains terms purporting to restrict the ownership or use of the property as prohibited in section 4 of P.L.1945, c.169 (C.10:5-4).

The undersigned is/are the legal owners of the property described herein.

Given under my/our hand(s) this _____ day of _____, 20__.

_____

_____

(Current Owners)

State of New Jersey County of _____

Subscribed, sworn to, and acknowledged before me this _____ day of _____, 20__.

_____

Notary Public
Notary Registration Number: _____
My Commission Expires: _____

C.46:15-18 Definitions; amendment of governing documents.

4. a. As used in this section:

"Association" shall mean a homeowners' or property owners' association, cooperative corporation, condominium association, or planned community acting through a majority vote of its full board membership; and

"Board" shall mean the governing board of an association.

b. Within 90 days of the enactment of P.L.2021, c.274 (C.46:15-15 et seq.), each board shall review the association's governing documents to determine whether those documents contain any restriction, covenant, or condition, that prohibits or limits the conveyance, encumbrance, rental, occupancy, or use of real property as prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12). If an association finds such an unlawful restriction, covenant, or condition in any of those documents, it shall amend the document or documents to remove the restriction, covenant, or condition. Removal of such a restriction, covenant, or condition shall not require approval of the members of the association, notwithstanding any provision of the governing documents to the contrary.

c. If, after the review and amendment of governing documents pursuant to subsection b. of this section has been completed, a board receives a written request from a member of the association to remove from those documents language that the member believes to be an unlawful restriction, covenant, or condition that prohibits or limits the conveyance, encumbrance, rental, occupancy, or use of real property as prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12), the board shall immediately undertake a review of the document or documents, which review shall be completed within 30 days of the member's written request. If the board determines that the member is correct, the board shall amend the document or documents to remove the restriction, covenant, or condition within 30 days of its determination.

d. Nothing in this act shall give rise to a private cause of action by or against an association, a board, a member, or the public for acting or not acting to remove or not remove an unlawful restriction, covenant, or condition.

5. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 275

AN ACT concerning the practice of cosmetology and hairstyling and amending and supplementing P.L.1984, c.205.

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

1. Section 3 of P.L.1984, c.205 (C.45:5B-3) is amended to read as follows:

C.45:5B-3 Definitions.

3. As used in this act:

a. "Barber" means any person who is licensed to engage in any of the practices encompassed in barbering.

b. "Barbering" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, primarily for male customers:

(1) shaving or trimming of the beard, mustache or other facial hair;

(2) shampooing, cutting, arranging, relaxing or styling of the hair;

(3) singeing, dyeing, tinting, coloring, bleaching of the hair;

(4) applying cosmetic preparations, antiseptics, tonics, lotions or creams to the hair, scalp, face or neck;

(5) massaging, cleansing or stimulating the face, neck or scalp with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or

(6) cutting, fitting, coloring or styling of hairpieces or wigs, to the extent that the services are performed while the wig is being worn by a person.

c. "Beautician" means any person who is licensed to engage in any of the practices encompassed in beauty culture.

d. "Beauty culture" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, primarily for female customers:

(1) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;

(2) singeing, dyeing, tinting, coloring, bleaching of the hair;

(3) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face, neck or upper part of the body;

(4) massaging, cleansing, or stimulating the face, scalp, neck or upper part of the body, with or without cosmetic preparations either by hand, mechanical or electrical appliances;

(5) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;

(6) manicuring the fingernails, nail-sculpturing or pedicuring the toenails; or

(7) cutting, fitting, coloring or styling of hairpieces or wigs to the extent that the services are performed while the wig is being worn by a person.

e. "Board" means the New Jersey State Board of Cosmetology and Hairstyling.

f. "Board of Barber Examiners" means the State Board of Barber Examiners established pursuant to P.L.1938, c.197 (C.45:4-27 et seq.).

g. "Board of Beauty Culture Control" means the Board of Beauty Culture Control established pursuant to Chapter 4A of Title 45 of the Revised Statutes.

h. "Clinic" means a designated portion of a licensed school in which members of the general public may receive cosmetology and hairstyling services from senior students in exchange for a fee. The clinic shall clearly post the fees for the cosmetology and hairstyling services and provide notice to consumers that the services provided in the clinic are performed by senior students under the supervision of licensed instructors.

i. "Cosmetologist-hairstylist" means any person who is licensed to engage in the practices encompassed in cosmetology and hairstyling.

j. "Cosmetology and hairstyling" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, for male or female customers:

(1) shaving or trimming of the beard, mustache or other facial hair;

(2) shampooing, cutting, arranging, dressing, relaxing, curling, permanent waving or styling of the hair;

(3) singeing, dyeing, tinting, coloring, bleaching of the hair;

(4) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the hair, scalp, face or neck;

(5) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances;

(6) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis;

(7) manicuring the fingernails, nail-sculpturing or pedicuring the toenails;

(8) cutting, fitting, coloring or styling of hairpieces or wigs to the extent that the services are being performed while the wig is being worn by a person.

(9) (Deleted by amendment, P.L.2018, c.126)

k. "Manicurist" means a person who holds a license to engage in only the practice of manicuring.

l. "Manicuring" means any one or combination of the following practices when performed on the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, for male or female customers:

(1) manicuring of the fingernails;

(2) pedicuring of the toenails;

(3) nail sculpturing; or

(4) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.

m. "Owner" means any person, corporation, firm or partnership who has a financial interest in a school or shop entitling him to participate in the promotion, management and proceeds thereof. It does not include a person whose connection with a school or shop entitles him only to reasonable salary or wages for services actually rendered. "Owner" shall also mean any person, corporation, firm or partnership who has a financial interest in a hair braiding shop entitling the person, corporation, firm or partnership to participate in the promotion, management and proceeds thereof.

n. "Practicing licensee" means any person who holds a license to practice barbering, beauty culture, cosmetology and hairstyling, manicuring or as a skin care specialist.

o. "Registered student" means a person who is engaged in learning and acquiring a knowledge of any of the practices included in the definition of cosmetology and hairstyling, including beauty culture, barbering, manicuring and skin care specialty, under the direction and supervision of a person duly authorized under this act to teach cosmetology and hairstyling and who is enrolled in a program of instruction at a licensed school of cosmetology and hairstyling, completion of which may render him eligible

for licensure pursuant to this act but does not mean a person who is enrolled in a public school vocational program in cosmetology and hairstyling approved by the State Board of Education or in any other cosmetology and hairstyling program approved by the State Board of Education.

p. "Registration card" means a document issued by the board to a registered student upon receipt of documentation from a licensed school of cosmetology and hairstyling that the student is enrolled.

q. "School" means an establishment or place licensed by the board to be maintained for the purpose of teaching cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding or skin care specialty to registered students.

r. "Senior student" means a registered student who has successfully completed one-half of the total hours of instruction required for licensure as a cosmetologist-hairstylist, beautician, barber, manicurist or skin care specialist in a licensed school of cosmetology and hairstyling, as determined by the board pursuant to regulation, or in any public school vocational training program approved by the State Board of Education.

s. "Student permit" means a permit issued to a senior student which enables him to practice cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty, as appropriate, based on the course of instruction in which the student is enrolled, in a school clinic or shop while a registered student at a licensed school of cosmetology and hairstyling or enrolled in an approved vocational training program.

t. "Shop" means any fixed establishment, mobile facility, or place where one or more persons engage in one or more of the practices included in the definition of cosmetology and hairstyling, barbering, beauty culture, manicuring, hair braiding or skin care specialty.

u. "Teacher" means any person who is licensed by the board to give instruction or training in the theory or practice of cosmetology and hairstyling, beauty culture, barbering, manicuring or skin care specialty.

v. "Temporary permit" means a permit issued to applicants for licensure awaiting scheduling or results of an examination.

w. (Deleted by amendment, P.L.2009, c.162)

x. "Skin care specialist" means a person who holds a license to engage in only the practices included in the definition of skin care specialty.

y. "Skin care specialty" means any one or combination of the following practices when performed on the male or female human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when performed for the general public, primarily for male customers:

(1) applying cosmetic preparations, antiseptics, tonics, lotions, creams or makeup to the scalp, face or neck;

(2) massaging, cleansing or stimulating the face, neck or upper part of the body, with or without cosmetic preparations, either by hand, mechanical or electrical appliances; or

(3) removing superfluous hair from the face, neck, arms, legs or abdomen by the use of depilatories, waxing or tweezers, but not by the use of electrolysis.

z. (Deleted by amendment, P.L.2009, c.162)

aa. "Hair braider" or "hair braiding specialist" means a person who holds a license to engage in only the practice of hair braiding.

bb. "Hair braiding" means the twisting, wrapping, weaving, extending, locking, or braiding of hair by hand or with mechanical devices. "Hair braiding" may include the use of: natural or synthetic hair extensions or fibers, decorative beads, and other hair accessories; minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair; making of wigs from natural hair, natural or synthetic fibers, and hair extensions; and the use of topical agents in conjunction with performing hair braiding, including conditioners, gels, moisturizers, oils, pomades, and shampoos.

cc. "Committee" means the Hair Braiding Establishment Advisory Committee established pursuant to section 3 of P.L.2018, c.126.

dd. "Mobile facility" means a shop capable of being moved from one place to another as or by a motor vehicle that shall be properly registered, insured, and inspected in accordance with all applicable motor vehicle laws and regulations and in compliance with all appropriate municipal laws and regulations including, but not limited to, licensing and land use approvals and permits, if applicable.

2. Section 8 of P.L.1984, c.205 (C.45:5B-8) is amended to read as follows:

C.45:5B-8 Premises exceptions.

8. No person shall offer or render any of the services encompassed within the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty services, in a place which is not licensed as a shop or school, except that a practicing licensee, duly licensed pursuant to this act, may render the services which he is licensed to offer:

a. Upon patients in hospitals, nursing homes, and other licensed health care facilities;

b. Upon inmates and residents of institutions of the Department of Corrections or the Department of Human Services;

c. Upon a person with a disability in the person's place of residence, if the practicing licensee is sponsored by a licensed shop and a record of those services is maintained by that shop;

d. Upon performers or models, prior to, in anticipation of or during a performance; or

e. Upon potential consumers of cosmetic preparations, lotions, creams, makeup or perfume which are intended for home use if the application of the product is made for the purposes of effecting a retail sale and the person neither accepts payment from the consumer for the service, nor makes the provision of the service contingent upon the purchase of any product or service.

Nothing contained in this section shall be construed to preclude a student enrolled in a school of cosmetology and hairstyling licensed in this State, or in a public school approved by the State Board of Education to offer a vocational program in cosmetology and hairstyling, or a student enrolled in a cosmetology and hairstyling program approved by the State Board of Education, from engaging in any activities incident to the instruction provided in such school or program.

3. Section 36 of P.L.1984, c.205 (C.45:5B-36) is amended to read as follows:

C.45:5B-36 Notification of change of location, ownership of shop, school.

36. a. A shop or school owner shall notify the board prior to initiating a change of location, a change of ownership, or such other change as the board may determine pursuant to regulation. The shop or school shall submit to the board an initial application for licensure. If a change of ownership results from the death or disability of a principal shareholder in a corporation, or partner in a partnership which holds a shop or school license, the new owner shall notify the board within six months after the change has been effected. For purposes of this section, a change of ownership shall be deemed to have occurred if more than 50% of the outstanding stock or other financial interest is transferred.

b. (1) A shop that is a mobile facility shall publish on a website that is accessible to the public a 14-day location schedule at least 14 days in advance of the first scheduled date. The mobile facility may make changes to the schedule within the first seven days after posting it to the website. If the

schedule changes after the first seven days, the mobile facility shall immediately notify the board of any change to that schedule.

(2) A shop that is a mobile facility shall be equipped with and utilize an automatic vehicle location system to track the location of the vehicle with respect to compliance with the schedule required pursuant to paragraph (1) of this subsection, in such manner as may be established by the board. For purposes of this paragraph, "automatic vehicle location system" means an automated system, such as a global positioning system, for tracking the geographic location of a motor vehicle and transmitting that location information to an authorized receiving entity, and "global positioning system" means a reporting technology that is monitored by a network of electronic navigation components in which a vehicle may be identified and tracked via satellite.

(3) It shall be unlawful for a shop that is a mobile facility to engage in services at a location other than the scheduled location as set forth in the schedule published pursuant to paragraph (1) of this subsection, unless the licensee shall demonstrate good cause for the failure to comply with this requirement. It shall not be unlawful pursuant to this paragraph for a mobile facility that is parked outside the home of a customer receiving services to not to be at the pre-determined location at the scheduled time.

C.45:5B-9.1 Mobile facility operation, structure requirements, ADA compliance.

4. a. To be licensed as a shop pursuant to section 9 of P.L.1984, c.205 (C.45:5B-9), a mobile facility shall comply with the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and additionally shall display a permanent sign indicating the name of the shop, which shall be clearly visible to the general public from the exterior of the shop, and shall contain:

(1) a minimum of 75 square feet of floor space;

(2) one lavatory including a toilet, hand washing facilities, and a door;

(3) one shampoo basin with hot and cold running water and a reclining chair;

(4) a designated area for cleaning and disinfecting implements and tools;

(5) one ultrasonic unit for cleaning metal implements and tools;

(6) a clean, closed receptacle for storage of sanitized implements and tools at each work station;

(7) a closed container for clean linens;

(8) a closed container for soiled linens;

(9) a closed waste container accessible to each work station;

(10) hair drying facilities or hair drying equipment;

(11) a dispensary or place where supplies are prepared and dispensed; and

(12) any other equipment necessary to provide the services offered by the shop in a safe and sanitary manner.

b. A mobile facility licensed as a manicuring or skin care specialty shop by the board shall be required to have at least one sink in the work area with hot and cold running water but shall be exempt from the requirement for a shampoo basin required pursuant to subsection a. of this section.

c. A mobile facility licensed as a barbering shop shall be required to contain at least one chair with an adjustable headrest suitable for performing shaving services.

d. A mobile facility shall maintain a stationary position whenever an individual therein is engaged in one or more of the practices included in the definition of cosmetology and hairstyling, barbering, beauty culture, manicuring, hair braiding or skin care specialty.

e. A mobile facility wherein an individual is engaged in one or more of the services included in the definition of cosmetology and hairstyling, barbering, beauty culture, manicuring, hair braiding or skin care specialty shall not operate within 300 feet of a shop licensed by the board to perform such services and that is not a mobile facility unless the mobile facility is:

(1) parked outside the home of a customer receiving services;

(2) lawfully participating in an event, including, but not limited to, a municipal or county function; or

(3) affiliated with the licensed shop.

5. Section 6 of P.L.1984, c.205 (C.45:5B-6) is amended to read as follows:

C.45:5B-6 Duties of board.

6. The board shall:

a. Review the qualifications of applicants for licensure;

b. Devise examinations for licensure which include practical and written portions;

c. Administer and grade examinations or employ competent examiners to administer and grade examinations but in no case shall the board permit a person having any affiliation with a licensed school to examine or grade an applicant who has been a registered student at the school with which the examiner has an affiliation;

d. Issue and renew licenses of any cosmetologist-hairstylist, beautician, barber, manicurist, skin care specialist, teacher, shop, or school;

e. Issue student permits to senior students, which permits shall remain valid during the period that the student is registered at a licensed school or enrolled in an approved vocational training program;

f. Issue temporary permits to applicants for licensure who are awaiting scheduling for or results from an examination;

g. Issue registration cards to registered students;

h. Suspend, revoke or refuse to renew a license and exercise investigative powers pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

i. Appoint and employ an executive director and an assistant executive director subject to the approval of the Attorney General, and other employees as necessary to carry out the provisions of this act;

j. Determine the duties that the executive director and the assistant executive director shall perform;

k. File with the Attorney General a petition to remove any executive director or assistant executive director for cause, which petition shall be acted upon by the Attorney General in a manner which he deems appropriate;

l. Establish fees for initial licensure, permits, renewals and restoration of licenses as well as for duplication of lost licenses pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2);

m. Maintain records of all practicing licensees and all licensed teachers. Records shall include the latest work address of each licensee, as provided on applications for licensure and renewals thereof;

n. Maintain a record of all registered students and all persons holding student permits;

o. Maintain a record of all shops licensed by the board to offer one or more of the services encompassed within the definition of cosmetology and hairstyling;

p. Maintain a record of all schools licensed by the board to offer courses of instruction or training in the practice and theory of cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty to registered students, which courses shall be approved by the board for the awarding of credit for licensure;

q. Make available for public inspection all records required to be kept pursuant to this section;

r. Promulgate regulations governing the practice and teaching of cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty as are necessary to implement this act and to insure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner which is sanitary and safe and in a manner which is not intended to deceive or mislead the general public;

s. Promulgate regulations governing the conduct of shops, including but not limited to mobile facilities, and schools as are necessary to implement

this act, including, but not limited to, regulations that ensure that all schools offer instruction on cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty by instructors who are knowledgeable in the practice and teaching of cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty, as the case may be, and to assure that cosmetology and hairstyling services and instruction in those services are being offered both in a manner that is sanitary and safe, and in a manner not intended to deceive or mislead the general public, students of the schools, or organizations awarding financial aid to the students and to clarify or define any term used in the act and to define any activity included in hairstyling and cosmetology, beauty culture, barbering, manicuring, hair braiding and skin care specialty;

t. Review curricula offered by licensed schools in courses of instruction offered to registered students and approve those curricula which offer comprehensive training in cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty;

u. Direct the conduct of inspections or investigations of all licensed shops and schools;

v. Direct the conduct of inspections or investigations of any premises from which the board may have reason to believe that cosmetology and hairstyling, beauty culture, barbering, manicuring, hair braiding and skin care specialty services are being offered, or that courses of instruction are being offered to registered students; and

w. Establish criteria and standards for education and experience required for licensure.

6. This act shall take effect on the first day of the twelfth month following the date of enactment, but the board may take such anticipatory action as shall be necessary for the implementation of this act.

Approved November 8, 2021.

CHAPTER 276

AN ACT concerning network adequacy of pediatric providers in the Medicaid program and supplementing Title 30 of the Revised Statutes.

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

C.30:4D-7ff Amendment of the Medicaid managed care organization contract provisions.

1. a. At the next regular opportunity, the Division of Medical Assistance and Health Services in the Department of Human Services shall amend the Medicaid managed care organization contract provisions on network adequacy to require:

(1) a sufficient number of pediatric primary care physicians (PCPs) to assure that:

(a) at least two physicians eligible as PCPs are within five miles or 10 minutes driving time or public transit time, whichever is less, of 90 percent of the managed care plan's pediatric enrollees who live in urban counties;

(b) at least two physicians eligible as PCPs are within 10 miles or 15 minutes driving time or public transit time, whichever is less, of 90 percent of the managed care plan's pediatric enrollees who live in non-urban counties; and

(c) 100 percent of all pediatric enrollees live no more than 30 minutes from at least one physician eligible as a PCP;

(2) a sufficient number of pediatric medical specialists to assure:

(a) access within 15 miles or 30 minutes driving time or public transit time, whichever is less, of 90 percent of the managed care plan's pediatric enrollees who live in urban counties; and

(b) access within 40 miles or 60 minutes driving time or public transit time, whichever is less, of 90 percent of the managed care plan's pediatric enrollees who live in non-urban counties;

(3) a sufficient number of pediatric oncologists and developmental and behavioral pediatricians and psychiatrists to assure:

(a) access within 10 miles or 20 minutes driving time or public transit time, whichever is less, of 90 percent of the managed care plan's pediatric enrollees who live in urban counties; and

(b) access within 30 miles or 45 minutes driving time or public transit time, whichever is less, of 90 percent of the managed care plan's pediatric enrollees who live in non-urban counties; and

(4) the following types of pediatric medical specialties represented within the plan's network: adolescent medicine; allergy and immunology; cardiology; developmental and behavioral pediatrics; psychiatry, emergency medicine; endocrinology and diabetes; gastroenterology and nutrition; general pediatrics; general pediatrics – dermatology; hematology; human genetics and metabolism; infectious disease; neonatology; nephrology; neurology; oncology; ophthalmology; orthopedics; otolaryngology; plastic surgery; pulmonary medicine, including sleep medicine; radiology; rehabilitative medicine; and rheumatology.

b. In each reporting period, a managed care organization may seek a waiver of a specific network adequacy provision established in paragraphs (2) through (3) of subsection a. of this section from the Division of Medical Assistance and Health Services. The division shall establish a waiver process where, at a minimum, the managed care organization must demonstrate both an active, good faith effort to meet requirements for applicable specialties in each applicable county, and certify to the division which specialty or specialties, and in which counties, for which insufficient providers exist.

c. The Division of Medical Assistance and Health Services shall require each managed care organization to establish a process by which a patient or provider may submit a grievance regarding the adequacy of its provider network. This process shall include response timeframes, but no more than 30 days, and reporting defined in the managed care contract, including documentation of specific provider availability addressing each grievance.

d. In order to provide timely services to patients, when a managed care organization is notified that care is needed for a Medicaid beneficiary in a county where a managed care organization was unable to certify that it meets, or received a waiver of, the network adequacy standards as required in subsection a. of this section, the managed care organization shall initiate negotiations with non-participating providers of that service, and shall provide timely authorization to ensure services can be provided to the beneficiary without delay and consistent with timeframes defined in the managed care contract for all routine and urgent services. Balance-billing of Medicaid beneficiaries shall be prohibited. Any copayments or other forms of cost-sharing imposed on services rendered under this paragraph shall be limited to the maximum amount allowed under State law for the Medicaid program. The Commissioner of Human Services may promulgate rules or regulations to resolve in a timely manner contracting disputes that arise under this subsection.

e. The Division of Medical Assistance and Health Services shall establish an enhanced system to assess the network adequacy of a managed care organization contracted with the division to provide benefits under Medicaid, including, but not limited to, requiring the managed care organization to certify, at a minimum on an annual basis, that the managed care organization meets the network adequacy requirements contained in their contract. The division shall enforce appropriate sanctions for non-compliance with this section, including, but not limited to, financial penalties that accrue during the period of non-compliance.

f. A managed care organization shall annually provide a report of the number of out-of-network contracts and waivers sought and granted by pediatric specialty, as listed in paragraph (4) of subsection a. of this section, and county to

the Division of Medical Assistance and Health Services, who shall make that information publicly available by request.

g. For the purposes of this section:

"Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Network adequacy" means the adequacy of the provider network with respect to the scope and type of health care benefits provided by the managed care plan, the geographic service area covered by the provider network, and access to medical specialists pursuant to the standards in the regulations promulgated pursuant to section 19 of P.L.1997, c.192 (C.26:2S-18) and in the existing contract between a managed care organization and the Division of Medical Assistance and Health Services in the Department of Human Services.

"Non-urban county" shall mean: Atlantic, Cape May, Cumberland, Gloucester, Hunterdon, Morris, Salem, Somerset, Sussex, and Warren counties, or as otherwise defined for the purposes of this section by the Commissioner of Human Services.

"Urban county" shall mean: Bergen, Burlington, Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, Passaic, and Union counties, or as otherwise defined for the purposes of this section by the Commissioner of Human Services.

C.30:4D-7gg Rules, regulations.

2. The Commissioner of Human Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

3. This act shall take effect on the first day of the third month following enactment, except that the Commissioner of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved November 8, 2021.

CHAPTER 277

AN ACT concerning nursing homes and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-12.87a Statewide nursing home infection control, prevention infrastructure assessment.

1. a. The Department of Health shall conduct a Statewide nursing home infection control and prevention infrastructure assessment, which assessment shall include, at a minimum:

(1) a count of the total number of single-resident rooms in nursing homes, a determination as to what percentage of the total number of authorized nursing home beds in New Jersey are utilized in single-resident rooms, and a review of the ability of nursing homes to convert multiple-resident rooms to single-resident rooms or otherwise expand the number of single-resident rooms;

(2) a survey of the maintenance status of heating, ventilating, air conditioning, and refrigeration systems in nursing homes;

(3) a study of the utilization of negative pressure rooms and other physical plant features that are designed or may be implemented to increase infection control and prevention capability in nursing homes; and

(4) any other infrastructure-related infection control or prevention considerations as are recommended for assessment by the New Jersey Task Force on Long-Term Care Quality and Safety established pursuant to P.L.2020, c.88. No later than 30 days after the effective date of this act, the Department of Health shall request that the New Jersey Task Force on Long-Term Care Quality and Safety provide the department with recommendations for infrastructure-related infection control and prevention considerations to be assessed pursuant to this section, which recommendations shall be provided by the task force to the department no later than 30 days after the date of the request.

b. The assessment required under subsection a. of this section shall be completed no later than one year after the effective date of this act.

c. No later than 180 days after completing the assessment required pursuant to subsection a. of this section, the department shall develop a Statewide nursing home infection control and prevention infrastructure improvement plan, which plan shall:

(1) establish standards and requirements for improvements to the infrastructure in nursing homes to improve infection control and prevention and to ensure the nursing homes are primarily focused on resident safety and the quality of services provided to residents;

(2) establish a long-term strategy to redesign the nursing home industry in New Jersey to ensure the system is primarily focused on resident safety

and the quality of services provided to residents, which strategy shall include design and construction standards for new facilities and facilities undergoing significant modifications;

(3) review and seek to incorporate best practice standards in place in other states; and

(4) establish specific goals and timelines for improvements, which shall take into account the age of the facilities, the availability of land for expansion or new construction, the costs of improvements, and the authorizations that would be required.

In developing the Statewide nursing home infection control and prevention infrastructure improvement plan pursuant to this subsection, the department shall consult with representatives from the nursing home industry, including representatives from for-profit and non-profit facilities, groups representing nursing home workers, including both direct care providers and support staff, resident advocates, and the families of residents.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 278

AN ACT concerning the purchase and use of unit concrete products that utilize carbon footprint-reducing technology and supplementing Titles 27, 52, and 54 of the Revised Statutes, Title 54A of the New Jersey Statutes, and P.L.1971, c.198.

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

C.52:27D-141.15 Findings, declarations relative to fossil fuels.

1. The Legislature finds and declares that the burning of fossil fuels and other industrial processes release harmful greenhouse gases into the atmosphere, which in turn contribute to climate change; that, in the coming years, New Jersey is likely to experience increased flooding, drought, and other severe weather effects caused by climate change; and that, in order to help mitigate the serious impacts of climate change, the State must drastically reduce its consumption of fossil fuels and its greenhouse gas emissions.

The Legislature further finds that concrete is the most widely used construction material in the world due to its low cost, strength, and durability;

that the production of ordinary Portland cement, the critical ingredient in concrete, is responsible for almost eight percent of the world's carbon dioxide emissions; that ordinary Portland cement requires significant amounts of energy to produce, resulting in high carbon dioxide emissions; that modern technology allows concrete to be produced utilizing less energy, and the emission of carbon dioxide from cement manufacturing can be greatly reduced by capturing and utilizing carbon dioxide in the unit concrete product manufacturing process, including the chemical reaction that results in strength and durability of concrete; and that this process can sequester carbon dioxide in the unit concrete product or chemically transform the carbon dioxide into mineral form, embedding it into the concrete and preventing its release as a gas.

The Legislature therefore determines that it is in the public interest to encourage and support the purchase of unit concrete products that utilize carbon footprint-reducing technology in the State; that unit concrete products that utilize carbon footprint-reducing technology will greatly reduce greenhouse gas emissions from the concrete and construction industries; and that incentives for permeable pavers that are unit concrete products that utilize carbon footprint-reducing technology will further help enhance stormwater management, reduce stormwater runoff, and decrease the risk of flooding in the State.

C.52:27D-141.16 Use of unit concrete products that utilize carbon footprint-reducing technology.

2. a. A builder shall, for any new construction that requires the use of unit concrete products, where technically feasible, offer as an option unit concrete products that utilize carbon footprint-reducing technology in the new construction, whenever a prospective client enters into negotiations with the builder to construct or purchase a new residential dwelling or commercial building in the State.

The requirements of this section shall not apply whenever a prospective client enters into negotiations with a builder for new construction of an individual unit of condominiums as defined in the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) or attached single-family townhouses or row houses for which title to the individual condominium, townhouse, or row house unit will be held in fee simple but the maintenance, repair, or replacement of improvements constructed with unit concrete products are the responsibility of a non-profit homeowners association.

b. A builder shall disclose in writing pursuant to paragraph (3) of subsection c. of this section, in a form and manner as determined by the commissioner:

(1) that the prospective client may choose to use unit concrete products that utilize carbon footprint-reducing technology in the new construction;

(2) the total cost to be charged by the builder to the prospective client of using unit concrete products that utilize carbon footprint-reducing technology in the new construction;

(3) general information on the environmental and other benefits of using unit concrete products that utilize carbon footprint-reducing technology; and

(4) information concerning any applicable tax credits, rebates, or other incentives that may be available for the use of unit concrete products that utilize carbon footprint-reducing technology pursuant to P.L.2021, c.278 (C.52:27D-141.15 et al.).

c. The commissioner, in consultation with the Department of Environmental Protection, shall:

(1) publish educational materials to demonstrate how builders may incorporate unit concrete products that utilize carbon footprint-reducing technology into new construction;

(2) provide builders with information concerning applicable tax credits, rebates, or other incentives that may be available for the use of unit concrete products that utilize carbon footprint-reducing technology pursuant to P.L.2021, c.278 (C.52:27D-141.15 et al.) or any other law; and

(3) provide builders with a separate form that the builder shall present, along with the materials required pursuant to subsection b. and c. of this section, to the prospective client prior to entering into a contract, which form shall allow a prospective client to accept or decline the option to use unit concrete products that utilize carbon footprint-reducing technology in the new construction.

d. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the commissioner, in consultation with the Department of Environmental Protection, may adopt, immediately upon filing the proper notice with the Office of Administrative Law, rules and regulations that the commissioner determines to be necessary to implement this section. These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. The commissioner shall enforce the provisions of this section and may penalize and assess violators of this section in accordance with the penalties and procedures provided for under section 18 of P.L.1977, c.419 (C.45:22A-38).

f. If a prospective client accepts, pursuant to a written contract, the builder's offer to use unit concrete products that utilize carbon footprint-reducing technology in the new construction, then the builder shall use unit concrete products that utilize carbon footprint-reducing technology subject to material availability or acts of force majeure, in which case the builder shall complete construction as soon as reasonably practical.

g. As used in this section:

"Advertising" means the same as the term is defined in section 3 of P.L.1977, c.419 (C.45:22A-23).

"Builder" means a person who constructs, or offers to construct, a new residential dwelling or commercial building in the State.

"Commissioner" means the Commissioner of Community Affairs.

"Prospective client" means a person who contemplates acquiring a legal or equitable interest in or constructing a new residential dwelling or commercial building.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.54:32B-8.65 Sale receipts of unit concrete products that utilize carbon footprint-reducing technology.

3. a. Receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, used in the construction or improvement of any residential dwelling or commercial building located in the State shall be exempt from the tax

imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section:

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.54:10A-5.48 Tax credit for taxpayer's purchase of unit concrete products that utilize carbon footprint-reducing technology.

4. a. A taxpayer who in a privilege period purchases unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, for use in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement, in the State shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to $2.00 per square foot of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, used in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The credit shall be allowed in the privilege period in which the purchase is made. The value of tax credits allowed to a taxpayer pursuant to this section shall not exceed $3,000 for a residential property, and $30,000 for a

commercial property in a single privilege period. In order to qualify for the tax credit pursuant to this section, a person shall purchase at least 100 square feet of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement.

b. The order of priority of the application of the tax credit allowed pursuant to this section, and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, shall be as prescribed by the director. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

c. In order to be allowed a tax credit pursuant to subsection a. of this section, a taxpayer who has purchased 100 or more square feet of unit concrete products certified pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17) shall attach receipts for the unit concrete products for which the tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in the State to any return the taxpayer is required to file under P.L.1945, c.162 (C.54:10A-1 et seq.). A credit shall be initially allowed for the privilege period in which the unit concrete products are purchased, and any unused portion thereof may be carried forward into subsequent privilege periods as provided in subsection b. of this section.

d. No amount of cost included in calculation of the credit allowed under this section shall be included in the costs for calculation of any other credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

e. The value of tax credits allowed by the director pursuant to this section and pursuant to section 5 of P.L.2021, c.278 (C.54A:4-22) shall not exceed a cumulative total of $20,000,000 in each fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

f. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the director, in consultation with the Department of Environmental Protection, shall adopt, immediately upon filing the proper notice with the Office of Administrative Law, rules and regulations as are necessary to implement the provisions of

this section. These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The director may require the submission of any information the director deems necessary to award a tax credit pursuant to this section.

g. As used in this section:

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.54A:4-22 Tax credit for taxpayer's purchase of unit concrete products that utilize carbon footprint-reducing technology.

5. a. A taxpayer who in a privilege period purchases unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, for use in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement, in the State shall be allowed a credit against the tax otherwise due for the taxable year under the "New

Jersey Gross Income Tax Act" N.J.S.54A:1-1 et seq., in an amount equal to $2.00 per square foot of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, used in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The credit shall be allowed in the taxable year in which the purchase is made. The total amount of the tax credit granted pursuant to this section shall not exceed $3,000 for a residential property, and $30,000 for a commercial property in a single taxable year. In order to qualify for the tax credit pursuant to this section, a person shall purchase at least 100 square feet of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement.

b. The order of priority of the application of the credit allowed pursuant to this section, and any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, shall be as prescribed by the director. The amount of the credit applied under this section against the New Jersey gross income tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law, shall not reduce a taxpayer's tax liability to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this section or other provisions of N.J.S.54A:1-1 et seq. may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

c. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a credit under this section directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a credit under this section directly, but the amount of the tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S

Corporation for its privilege period ending within or with the taxpayer's taxable year.

d. In order to be allowed a tax credit pursuant to subsection a. of this section, a taxpayer who has purchased 100 or more square feet of unit concrete products certified pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17) shall attach receipts for the unit concrete products for which a tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in New Jersey to any return the taxpayer is required to file under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. A credit shall be initially allowed for the taxable year in which the unit concrete products are purchased, and any unused portion thereof may be carried forward into subsequent taxable years as provided in subsection b. of this section.

e. No amount of cost included in calculation of the credit allowed under this section shall be included in the costs for calculation of any other credit against the gross income tax imposed pursuant to N.J.S.54A:1-1 et seq.

f. The value of tax credits allowed by the director pursuant to this section and pursuant to section 4 of P.L.2021, c.278 (C.54:10A-5.48) shall not exceed a cumulative total of $20,000,000 in each fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

g. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the director, in consultation with the Department of Environmental Protection, shall adopt, immediately upon filing the proper notice with the Office of Administrative Law, rules and regulations as are necessary to implement the provisions of this section. These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The director may require the submission of any information the director deems necessary to award a tax credit pursuant to this section.

h. As used in this section:

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended

point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.52:32-62 Required use of unit concrete products that utilize carbon footprint-reducing technology.

6. a. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, and any State agency having authority to contract for the purchase of goods or services, shall, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, when entering into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement.

b. The Division of Purchase and Property and the Division of Property Management and Construction, in consultation with the Department of Environmental Protection, shall develop and publish guidelines for implementing the requirement established pursuant to subsection a. of this section. The guidelines shall conform to any standards or procedures established pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17). Whenever any agency or department of State government purchases unit concrete products, or undertakes any construction or improvement project that requires the use of unit concrete products, the agency or department shall follow the guidelines therefor established by the director.

c. In preparing the specifications for any contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, or any State agency having authority to contract for the purchase of goods or services shall include in the invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology whenever technically feasible. The State agency shall include in its project specifications a specific line item for each unit concrete product to be used in the project.

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

(1) any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(2) bid packages advertised and made available to the public, or to any competitive and sealed bids received by the State, prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(3) any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.) where the application would delay timely completion of a project or involve an increase in the total moneys to be paid by the State under that contract; or

(4) a contract when the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, or the head of any State agency having authority to contract for the purchase of goods or services determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract by an unreasonable amount.

e. As used in this section:

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable,

and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.40A:11-4.13 Required use of unit concrete products that utilize carbon footprint-reducing technology.

7. a. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, a local contracting unit shall, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavers, when entering into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement.

b. The director, in consultation with the Department of Environmental Protection, shall develop and publish guidelines for implementing the requirement established pursuant to subsection a. of this section. The guidelines shall conform to any standards or procedures established pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17). Whenever a local contracting unit purchases unit concrete products, or undertakes any construction or improvement project that requires the use of unit concrete products, the local contracting unit shall follow the guidelines therefor established by the director.

c. In preparing the specifications for a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, a local contracting unit shall include in the invitation to bid, including in the specifications for all contracts for county or municipal work or for work for which it will pay any part of the cost, or work which by contract or ordinance it will ultimately own and maintain, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology whenever technically feasible. The local contracting unit shall include in its project specifications a specific line item for each unit concrete product to be used in the project.

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

(1) any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(2) bid packages advertised and made available to the public, or to any competitive and sealed bids received by the local contracting unit, prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(3) any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.) where the application would delay timely completion of a project or involve an increase in the total moneys to be paid by the local contracting unit under that contract; or

(4) a contract when the head of a local contracting unit determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract.

e. As used in this section:

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Local contracting unit" means any public agency subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional

unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.27:1B-21.38 Program established to implement the use of unit concrete products that utilize carbon footprint-reducing technology.

8. a. The Department of Transportation shall establish and implement a program to use, to the greatest extent practicable as determined by the Commissioner of Transportation, unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, in the design, construction, reconstruction, or repair of any public highway, parking lot, sidewalk, walkway, patio, or other public infrastructure project that requires the use of unit concrete products, or in the replacement of an impervious surface with permeable pavement, and that is funded in whole or in part from the "Special Transportation Fund" established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21).

b. As used in this section:

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that

incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.52:32-1b Use of unit concrete products that utilize carbon footprint-reducing technology.

9. a. Any person or entity that purchases unit concrete products, or that undertakes any construction or improvement that requires the use of unit concrete products, including the replacement of impervious surface with permeable pavement, the cost or contract price of which is financed, in whole or in part, by State funds, shall, as a condition of receiving State funds, use unit concrete products that utilize carbon footprint-reducing technology, provided that such utilization does not conflict with federal funding conditions.

b. As used in this section:

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.52:27D-141.17 Standards, procedures, implementation.

10. a. The Commissioner of Environmental Protection shall establish any standards and procedures necessary to implement the provisions of P.L.2021, c.278 (C.52:27D-141.15 et al.), including, but not limited to, production and use standards, and a process for certifying whether the production and use of a unit concrete product generates at least 50 percent less carbon dioxide emissions than

conventional unit concrete products made with ordinary Portland cement. The commissioner shall publish on the department's Internet website a list of unit concrete products certified by the department pursuant to this subsection. The Department of Environmental Protection shall consider a consensus evaluation and reporting standard developed by an independent private organization such as the International Organization for Standardization or the American National Standards Institute that creates a uniform system for self-evaluation and self-reporting by unit concrete product manufacturers, and shall give preference to a standard supported by the unit concrete product industry or industry associations.

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the State Treasurer, the Commissioner of Environmental Protection, the Commissioner of Transportation, the Commissioner of Community Affairs, and the Secretary of Higher Education may adopt, immediately upon filing the proper notice with the Office of Administrative Law, any rules and regulations necessary to implement the provisions of P.L.2021, c.278 (C.52:27D-141.15 et al.). These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

11. This act shall take effect immediately and sections 4 and 5 shall apply to purchases of unit concrete products that utilize carbon footprint-reducing technology made on or after the first day of the second month next following the date of enactment.

Approved November 8, 2021.

CHAPTER 279

AN ACT concerning early college high school teachers and supplementing chapter 26 of Title 18A of the New Jersey Statutes.

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

C.18A:26-2.30 Alternate route program and certification for grades 7 to 12 at early college high school program.

1. a. The State Board of Education shall authorize an alternate route to expedite the certification of persons who are qualified by education and

experience to teach grades seven through 12 at an early college high school program and shall exempt the candidate from the requirements governing a Certificate of Eligibility set forth in State Board of Education regulations. The alternate route shall consist of a three-tiered certificate program. The standards established by the State board shall include at a minimum:

(1) for receipt of an early college high school certificate of eligibility, the candidate shall:

(a) Hold an advanced degree from a regionally accredited college or university in a field related to the subject area to be taught, as determined by the State board;

(b) Have experience teaching students at any grade level, including postsecondary students; and

(c) Pass the appropriate State test of subject-matter knowledge.

(2) for receipt of an early college high school provisional certificate, the candidate shall provide proof that an early college high school intends to employ the candidate in a teaching position.

(3) for receipt of an early college high school standard certificate, the candidate shall successfully complete at least four school years of teaching at the early college high school.

b. The certification provided pursuant to this section may be used only for employment at an early college high school and shall not satisfy the requirements for employment in any other public school.

c. Nothing herein shall be construed to preclude a teacher with an instructional certificate with an appropriate instructional endorsement issued by the State Board of Examiners from teaching at an early college high school program.

d. As used in this section, "early college high school program" means a partnership between a school district and an institution of higher education that allows participants to simultaneously complete requirements toward earning a State-endorsed high school diploma and have the opportunity to earn credits that are transferable to the institution of higher education in the partnership as part of an organized course of study toward a postsecondary degree at no cost to the participant or participant's family.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 280

AN ACT concerning voluntary contributions through gross income tax returns to support Special Olympics New Jersey, supplementing chapter 9 of Title 54A of the New Jersey Statutes.

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

C.54A:9-25.48 "Special Olympics New Jersey Fund".

1. a. There is established in the Department of the Treasury a special fund to be known as the "Special Olympics New Jersey Fund."

b. A taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution shall be deposited in the "Special Olympics New Jersey Fund."

c. Any costs incurred by the Division of Taxation for collection or administration attributable to this section may be deducted from receipts collected pursuant to this section, as determined by the Director of the Division of Budget and Accounting in the Department of the Treasury. The State Treasurer shall deposit net contributions collected pursuant to this section into the "Special Olympics New Jersey Fund."

d. The Legislature shall annually appropriate all monies deposited in the "Special Olympics New Jersey Fund" established pursuant to this section for distribution to the Special Olympics New Jersey organization.

2. This act shall take effect immediately and apply to taxable years beginning on or after the January 1 next following enactment.

Approved November 8, 2021.

CHAPTER 281

AN ACT concerning real estate brokers, broker-salespersons and salespersons, and amending R.S.45:15-16 and R.S.45:15-17.

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

1. R.S.45:15-16 is amended to read as follows:

Acceptance of commission, valuable consideration.

45:15-16. a. No real estate salesperson or broker-salesperson shall accept a commission or valuable consideration for the performance of any of the acts herein specified, from any person except his employer or contracting broker, who must be a licensed real estate broker.

b. A real estate salesperson or broker-salesperson may form a limited liability company pursuant to the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or any other entity permitted by law, in order to receive a commission or other valuable consideration pursuant to subsection a. of this section, and the real estate salesperson or broker-salesperson may accept payment of the commission or other valuable consideration or any part thereof from the limited liability corporation or other entity. Notwithstanding the formation of such an entity, a salesperson or broker-salesperson who satisfies the requirements of subparagraph (K) of paragraph (7) of subsection (i) of R.S.43:21-19 shall not be considered an employee pursuant to that law.

c. The New Jersey Real Estate Commission shall create a registration process for a limited liability company and other entity to receive a commission or other valuable consideration pursuant to subsection a. of this section.

2. R.S.45:15-17 is amended to read as follows:

Investigation of actions of licensees; suspension or revocation of licenses and causes therefor.

45:15-17. The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any real estate broker, broker-salesperson, or salesperson, or any person who assumes, advertises or represents himself as being authorized to act as a real estate broker, broker-salesperson, or salesperson or engages in any of the activities described in R.S.45:15-3 without being licensed so to do. The lapse or suspension of a license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the commission of jurisdiction to proceed with any investigation as herein provided or prevent the commission from taking any regulatory action against such licensee, provided, however, that the alleged charges arose while said licensee was duly licensed. Each transaction shall be construed as a separate offense.

In conducting investigations, the commission may take testimony by deposition as provided in R.S.45:15-18, require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter under investigation, and,

upon its own motion or upon the request of any party, subpoena witnesses, compel their attendance, take evidence, and require the production of any material which is relevant to the investigation, including any and all records of a licensee pertaining to his activities as a real estate broker, broker-salesperson, or salesperson. The commission may also require the provision of any information concerning the existence, description, nature, custody, condition and location of any books, documents, or other tangible material and the identity and location of persons having knowledge of relevant facts of any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions posed by an investigator or legal representative of the commission and upon reasonable notice to all affected persons, the commission may commence an administrative action as provided below or apply to the Superior Court for an order compelling compliance.

The commission may place on probation, suspend for a period less than the unexpired portion of the license period, or may revoke any license issued under the provisions of R.S.45:15-1 et seq., or the right of licensure when such person is no longer the holder of a license at the time of hearing, or may impose, in addition or as an alternative to such probation, revocation or suspension, a penalty of not more than $5,000 for the first violation, and a penalty of not more than $10,000 for any subsequent violation, which penalty shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), where the licensee or any person, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

a. Making any false promises or any substantial misrepresentation; or

b. Acting for more than one party in a transaction without the knowledge of all parties thereto; or

c. Pursuing a flagrant and continued course of misrepresentation or making of false promises through agents, broker-salespersons, or salespersons, advertisements or otherwise; or

d. Failure to account for or to pay over any moneys belonging to others, coming into the possession of the licensee; or

e. Any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty. The failure of any person to cooperate with the commission in the performance of its duties or to comply with a subpoena issued by the commission compelling the production of materials in the course of an investigation, or the failure to give a verbal or written statement concerning a matter under investigation may be construed as conduct demonstrating unworthiness; or

f. Failure to provide his client with a fully executed copy of any sale or exclusive sales or rental listing contract at the time of execution thereof, or failure to specify therein a definite terminal date which terminal date shall not be subject to any qualifying terms or conditions; or

g. Using any plan, scheme or method for the sale or promotion of the sale of real estate which involves a lottery, a contest, a game, a prize, a drawing, or the offering of a lot or parcel or lots or parcels for advertising purposes. If a broker participates in a promotion or offering of free, discounted, or other services or products which confers upon the recipient a monetary benefit of greater than $1,000, the broker shall provide written disclosure of the benefit to the recipient and any information concerning the promotion or benefit as may be required by the commission. A broker shall disclose in writing any compensation received for such promotion or offer in the form and substance as required by the federal "Real Estate Settlement Procedures Act of 1974," 12 U.S.C. ss.2601 et seq., except that, notwithstanding the provisions of that federal act, written disclosure shall be provided no later than when the promotion or offer is extended by the broker to the consumer; or

h. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a real estate license to the licensee; or

i. Collecting a commission as a real estate broker in a transaction, when at the same time representing either party in a transaction in a different capacity for a consideration; or

j. Using any trade name or insignia of membership in any real estate organization of which the licensee is not a member; or

k. Paying any rebate, profit, compensation or commission to anyone not possessed of a real estate license, except that: (1) free, discounted or other services or products provided for in subsection g. of this section shall not constitute a violation of this subsection; and (2) a real estate broker may provide a purchaser of residential real property, but no other third party a rebate of a portion of the commission paid to the broker in a transaction, so long as: the broker and the purchaser contract for such a rebate at the onset of the broker relationship in a written document, electronic document or a buyer agency agreement; the broker complies with any State or federal requirements with respect to the disclosure of the payment of the rebate; and the broker recommends to the purchaser that the purchaser contact a tax professional concerning the tax implications of receiving that rebate. The rebate paid to the purchaser shall be in the form of a credit, reducing the amount of the commission payable to the broker, or a check paid by the closing agent and shall be made at the time of closing; or

l. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing; or

m. Accepting a commission or valuable consideration as a real estate broker-salesperson or salesperson for the performance of any of the acts specified in this act, from any person, except his employing or contracting broker, who must be a licensed broker; or

n. Procuring a real estate license, for himself or anyone else, by fraud, misrepresentation or deceit; or

o. Commingling the money or other property of his principals with his own or failure to maintain and deposit in a special account, separate and apart from personal or other business accounts, all moneys received by a real estate broker, acting in said capacity, or as escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; or

p. Selling property in the ownership of which he is interested in any manner whatsoever, unless he first discloses to the purchaser in the contract of sale his interest therein and his status as a real estate broker, broker-salesperson, or salesperson; or

q. Purchasing any property unless he first discloses to the seller in the contract of sale his status as a real estate broker, broker-salesperson, or salesperson; or

r. Charging or accepting any fee, commission or compensation in exchange for providing information on purportedly available rental housing, including lists of such units supplied verbally or in written form, before a lease has been executed or, where no lease is drawn, before the tenant has taken possession of the premises without complying with all applicable rules promulgated by the commission regulating these practices; or

s. Failing to notify the commission within 30 days of having been convicted of any crime, including any sex offense that would qualify the licensee for registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of another state or jurisdiction, misdemeanor or disorderly persons offense, or of having been indicted, or of the filing of any formal criminal charges, or of the suspension or revocation of any real estate license issued by another state, or of the initiation of formal disciplinary proceedings in another state affecting any real estate license held, or failing to supply any documentation available to the licensee that the commission may request in connection with such matter; or

t. The violation of any of the provisions of R.S.45:15-1 et seq. or of the administrative rules adopted by the commission pursuant to the provisions of R.S.45:15-1 et seq. The commission is expressly vested with the power and authority to make, prescribe and enforce any and all rules and

regulations for the conduct of the real estate brokerage business consistent with the provisions of chapter 15 of Title 45 of the Revised Statutes.

If a licensee is deemed to be guilty of a third violation of any of the provisions of this section, whether of the same provision or of separate provisions, the commission may deem that person a repeat offender, in which event the commission may direct that no license as a real estate broker, broker-salesperson, or salesperson shall henceforth be issued to that person.

3. This act shall take effect on the first day of the sixth month next following the promulgation of regulations by the New Jersey Real Estate Commission to effectuate the purposes of this act.

Approved November 8, 2021.

CHAPTER 282

AN ACT concerning Kean University, supplementing Title 18A of the New Jersey Statutes, and revising various parts of the statutory law.

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

C.18A:64O-1 Short title.

1. This act shall be known and may be cited as the "Kean University Act."

C.18A:64O-2 Findings, declarations relative to urban research universities.

2. The Legislature finds and declares that:

a. Kean University is a State university located in Union, Toms River, Manahawkin, and Jefferson, New Jersey, and Wenzhou, China, currently operating pursuant to the authority granted to State colleges by N.J.S.18A:64-1 et seq. and P.L.1994, c.48 (C.18A:3B-1 et seq.).

b. An urban research university is defined as an institution of higher education having one or more campus locations based at an urban center that reflects the diversity of the region's urban centers, serves as a hub for urban economic development by collaborating with policymakers and business leaders throughout the State, and applies education and research to inform urban public policy. Urban research universities provide high quality education at the undergraduate and graduate levels to underrepresented and underserved populations, predominantly commuter students, who would otherwise encounter

numerous obstacles to advance beyond secondary education. By doing so, urban research universities play a vital and unique role in changing the face of professions that have historically been homogenous and monolithic, such as science, technology, engineering, and mathematics (STEM) fields, architecture, clinical sciences, and medicine. Urban research universities enrich the diversity of college student demographics, promote inclusion, and nurture diversity of thought to the problem solving of society's most challenging issues.

c. Building on a distinguished 166-year history, Kean University is a leading institution of higher education in New Jersey. The university's eight colleges and schools serve 14,000 undergraduate and graduate students in more than 50 baccalaureate programs and more than 60 programs of graduate study, including six doctoral programs.

d. Kean University is currently comprised of the College of Liberal Arts, the Michael Graves College, the Dorothy and George Hennings College of Science, Mathematics and Technology, the College of Education, the College of Business and Public Management, The New Jersey Center for Science, Technology and Mathematics, the School of Kean Online Education, and the Nathan Weiss Graduate College.

e. Effective December 4, 2017, the Office of the Secretary of Higher Education officially changed Kean University's programmatic mission to a doctoral degree-granting institution.

f. Since its founding in 1855 as the Newark Normal School, Kean University has evolved from an urban-based teacher education school into a comprehensive, doctoral-granting urban-research university with a global reach. Since the Northwest Ordinance of 1787, access to higher education has been viewed as a right by states, to prepare an educated citizenry as a foundation of social and economic development of their communities.

g. Kean University has more than 30 research centers, including the John S. Watson Institute for Urban Policy and Research that engages the New Jersey Urban Mayors Association that works with state and federal agencies, lawmakers, and nongovernmental and community-based organizations to develop and advance progressive and effective public policy to benefit urban communities. Partnership with the New Jersey Legislative Black Caucus allows Kean University to create innovative and sustaining policies to unite thought leaders, decision-makers, and higher education to address the systemic and structural need for equity in urban communities.

h. Kean University is recognized for its diversity and social mobility by the U.S. News and World Report, with an enrollment of 61 percent students of color. Kean University is designated as a Hispanic-Serving Institution by the federal Department of Education, exceeding the requirement of 25 percent

of full-time equivalent status, with Hispanic students comprising 34 percent of the enrollment. The preponderance of Hispanic and African American students reflects the rich diversity of the proximate urban centers of Newark and Elizabeth, New Jersey to Kean University's main campus in Union.

i. More than half of the students at Kean University are supported by Pell Grants and are the first in their family to attend college.

j. Kean University graduates, from undergraduate to doctoral programs, reflect the diversity of New Jersey's urban centers. Kean University's Hispanic and African American graduates represent 38 percent of baccalaureate degree recipients, 43 percent of Master's degree recipients, and 31 percent of doctoral degree recipients, far exceeding the nationwide averages for this group among baccalaureate degree recipients (25 percent), Master's degree recipients (24 percent), and doctoral degree recipients (17 percent). Such diversity ranks Kean University among the most diverse urban research universities in the nation. The five-year graduation rates for Hispanic and African American students (at 77 percent and 63 percent respectively) in the combined Bachelor of Science and Master of Science at Kean University's New Jersey Center for Science, Technology and Mathematics are more than triple the national average. Kean University qualified for State funding through the New Jersey Office of the Secretary of Higher Education's Outcomes-Based Allocation, with 43 percent academic degree completions by underrepresented minorities and 5,717 Pell Grant recipients for the 2019 to 2020 academic year.

k. Kean University's mission statement, "to serve as active and contributing members of their communities," along with goals to continue to evolve as a "doctoral university with rigorous research activity" and to position Kean University as a "cultural, economic, and educational epicenter for the entire community" in "Beyond 2020: Kean University Strategic Plan 2020-2025," are consistent with criteria for urban research universities in the nation.

l. Kean University recently launched the Kean Scholar Academy Innovative, an innovative dual enrollment program for high school students. Students from urban districts in Union, Essex, Passaic, and Middlesex counties can earn college credits in a selected major and benefit from mentors and social-emotional support.

m. Kean University has been recognized through awards of highly competitive research grants from federal agencies including the National Endowment for the Humanities, National Science Foundation, National Institutes of Health, and the Department of Education. These grant awards have supported the enhancement of education and research for underrepresented and underserved students, including Spanish-speaking students seeking degrees in computer science.

n. Kean University has established the Center for Clinical Laboratory Science and Pandemic Research that includes a federally certified laboratory for COVID-19 testing on campus. Kean University's COVID-19 testing and research capabilities result from a unique partnership between the University, Union County, the State, and private industry. Research seeks solutions to address public health issues and racial health disparities experienced during the pandemic. COVID-19 vaccinations are available on campus in Union, New Jersey and mobile support is available for urban centers across the State.

o. In light of Kean University's continuous contributions and commitment to the advancement of important research initiatives, it is appropriate at this time to designate Kean University as a public urban research university.

C.18A:64O-3 Designation as public research university.

3. As used in this act "Kean University," hereinafter referred to as "university," shall, unless the context clearly indicates to the contrary, include and mean the public urban research university herein designated "Kean University" as presently and hereafter constituted, including all departments, colleges, schools, centers, branches, educational and other units and extensions thereof, extension and cooperative education programs, continuing education programs and all other departments of higher education maintained by the educational entity of the university.

C.18A:64O-4 Body corporate and politic.

4. There is hereby established a body corporate and politic to be known as Kean University. The exercise by the university of the powers conferred by this act shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

C.18A:64O-5 Public policy.

5. It is declared to be the public policy of the State that the university shall be given a high degree of self-government and that the governance and conduct of the university shall be free of partisanship.

C.18A:64O-6 Board of trustees.

6. The board of trustees of the university is continued and shall have and exercise the powers, authority, rights and privileges and shall be subject to the duties, obligations, and responsibilities set forth in this act.

C.18A:64O-7 Composition, size of board; terms.

7. a. The composition and size of the board of trustees shall be determined by the board; however, the board shall have not less than seven nor more than

15 members. The members shall be appointed by the Governor with the advice and consent of the Senate. The board of trustees shall recommend potential new members to the Governor. The terms of office of appointed members shall be for six years beginning on July 1 and ending on June 30. Each member shall serve until the member's successor shall have been appointed and qualified and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired terms. Any member of the board of trustees may be removed by the Governor for cause upon notice and opportunity to be heard.

b. Members of the board as of the effective date of this act shall continue in office until the expiration of their respective terms and the qualification in office of their successors.

c. All voting members of the board of trustees, before undertaking the duties of their office, shall take and subscribe an oath or affirmation to support the Constitution of the State of New Jersey and of the United States, to bear allegiance to the government of the State, and to perform the duties of their office faithfully, impartially and justly, to the best of their ability.

d. Members of the board of trustees shall not receive compensation for their services. Each trustee shall be reimbursed for actual expenses reasonably incurred in the performance of the trustee's duties or in rendering service as a member of or on behalf of the board or any committee of the board.

e. The board of trustees shall elect its chairperson from among its voting members annually in July. The board shall select such other officers from among its members as shall be deemed necessary.

f. A voting member of the board of trustees shall not be a salaried official of the State of New Jersey, or receive remuneration for services from the university. If any member of the board shall become ineligible by reason of the foregoing, a vacancy in the member's office as trustee shall thereby occur.

g. The board of trustees shall have the power to appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies as it may deem necessary or conducive to the efficient management and operation of the university, consistent with this act and other applicable statutes.

C.18A:64O-8 Election of student representatives.

8. The board of trustees of the university shall provide for the election of two student representatives, who shall be full-time, regularly matriculated students in good academic standing, and who shall be 18 years of age or older and citizens of the United States. The student representatives shall be elected by

the members of the student government association to serve on the board of trustees for terms of two years commencing at the next organization of the board.

a. A student shall be elected for a two-year term, but shall serve during the first year as an alternate member, and as a voting member during the second year.

Any vacancies which occur shall be filled by the student governing body for the unexpired term only.

b. The standards for eligibility for student representatives on the board of trustees shall be the same as those required for other student government officers.

c. The student members shall be entitled to full participation in all activities of the board except that they shall not participate in:

(1) any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective officer or employee or current officer or employee employed or appointed by the board, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting;

(2) any matter involving the purchase, lease, acquisition or sale of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of these matters were disclosed; and

(3) any pending or anticipated litigation in which the board is, or may become, a party, where it could adversely affect the public interest if discussion of these matters were disclosed, or any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise the attorney's ethical duties as a lawyer.

d. Upon assuming office, the students shall agree to adhere to such standards of responsibility and confidentiality as are established by the board of trustees.

C.18A:64O-9 Powers, duties.

9. The board of trustees of the university shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty to:

a. adopt and use a corporate seal;

b. determine the educational curriculum and program of the university;

c. determine policies for the organization, administration, and development of the university;

d. study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and

prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. in accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. in accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. grant diplomas, certificates or degrees;

k. enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall

be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

n. establish fees for room and board sufficient for the operation, maintenance, and rental of student housing and food services facilities;

o. fix and determine tuition rates and other fees to be paid by students;

p. accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

q. acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. authorize any new program, educational department or school consistent with the programmatic mission of the institution or approved by the Secretary of Higher Education;

v. adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds $33,000 or the

amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and C.52:34-10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing on July 1 next following the effective date of this act, and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this subsection in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported. This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

(1) investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property; and

(2) investment in not-for-profit corporations may also utilize income from overhead grant fund recovery as permitted by federal law as well as

other university funds except those specified in paragraph (5) of subsection x. of this section;

x. (1) participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent;

(2) the decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) the provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) funds directly appropriated to the university from the State or derived from the university's academic programs shall not be utilized by the for-profit or not-for-profit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) a joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) income realized by the university as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection w. of this section, or any other provision of this act or State or federal law, or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) the board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university;

y. sue and be sued in its own name;

z. retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6);

aa. (1) procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the provisions of chapters 10, 10A, and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.), the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

dd. establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university.

C.18A:64O-10 Public-private partnership agreements.

10. Notwithstanding the provisions of section 43 of P.L.2009, c.90 (C.18A:64-85) to the contrary, the university may enter into a public-private partnership agreement in accordance with the provisions of that section.

C.18A:64O-11 Participating contracting unit in competitive pricing system.

11. a. The university is authorized to be a participating contracting unit in a cooperative pricing system established pursuant to the laws of this State.

b. The university may make purchases and contract for services through the use of a nationally-recognized and accepted cooperative purchasing agreement, including a cooperative purchasing agreement in existence as of the effective date of P.L.2016, c.50 (C.18A:64-63.1 et al.), in accordance with the provisions of paragraph (3) of subsection b. of section 7 of P.L.1996, c.16 (C.52:34-6.2).

c. The State Treasurer may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to effectuate the purposes of this section.

C.18A:64O-12 Functions, powers, duties relative to investment, reinvestment of certain funds, purchase, sale.

12. All functions, powers and duties relating to the investment or reinvestment of funds other than those funds specified in subsection w. of section 9 of P.L.2021, c.282 (C.18A:64O-9) within the jurisdiction of the board of trustees including the purchase, sale, or exchange of any investments or securities may be exercised and performed by the Director of the Division of Investment in the Department of the Treasury in accordance with the provisions of P.L.1950, c.270 (C.52:18A-79 et seq.) if so authorized by the board. Before any such investment, reinvestment, purchase, sale, or exchange shall be made by the director for or on behalf of the board of trustees, the Director of the Division of Investment shall submit the details thereof to the board, which shall, itself or by its finance committee, within 48 hours, exclusive of Sundays and public holidays, after such submission to it, file with the director its written acceptance or rejection of such proposed investment, reinvestment, purchase, sale, or exchange; and the director shall have authority to make such investment, reinvestment, purchase, sale, or exchange for or on behalf of the board, unless there shall have been filed with him a written rejection thereof by the board or its finance committee as herein provided. The board of trustees shall determine from time to time the cash

requirements of the various funds and accounts established by it and the amount available for investment, all of which shall be certified to the State Treasurer and the Director of the Division of Investment.

The finance committee of the board of trustees shall consist of three members of the board who shall be appointed in the same manner and for the same term as other committees of the board are appointed.

C.18A:64O-13 Internet website for board of trustees.

13. The university shall maintain an Internet website for the board of trustees. The purpose of the website shall be to provide increased public access to board operations and activities. The website shall be updated on a regular basis. The following information shall be posted on the board's website:

a. the board's rules, regulations, resolutions, and official policy statements;

b. notice, posted at least five business days prior to a meeting of the board or any of its committees, setting forth the time, date, location, and agenda of the meeting;

c. the minutes of each meeting of the board and its committees; and

d. information on any contract entered into by the board that was not competitively bid and the statutory authority for the contracting process.

C.18A:64O-14 Additional powers, duties.

14. The board of trustees, in addition to the other powers and duties provided herein, shall be vested with the right of perpetual succession and shall have and exercise all the powers, rights, and privileges that are incident to the proper governance, conduct, and management of the university and the control of its properties and funds and such powers granted to the university or the board or reasonably implied, may be exercised without recourse or reference to any department or agency of the State, except as otherwise provided by this act.

C.18A:64O-15 Appointment, compensation of president.

15. The board shall appoint and fix the compensation of a president of the university. The president shall be responsible to the board of trustees and shall have such powers as shall be requisite for the executive management and conduct of the university in all departments, branches and divisions, and for the execution and enforcement of bylaws, ordinances, rules, regulations, statutes, and orders governing the management, conduct and administration of the university.

C.18A:64O-16 Immunity from personal liability.

16. No trustee or officer of the university shall be personally liable for any debt, obligation, or other liability of the university or incurred by or on behalf of the university or any constituent unit thereof.

C.18A:64O-17 Advice to Governor, Legislature.

17. The board of trustees shall advise the Governor and Legislature, in consultation with the Secretary of Higher Education and the President's Council and successor bodies, on the manner in which the facilities and services of the university may be utilized so as to increase the efficiency of the public education system and provide, maintain, and improve upon the quality of higher education for the people of the State. The board of trustees shall make recommendations to the Governor and the Legislature respecting the needs for the facilities and services of the university as an educational instrumentality of the State for that purpose.

C.18A:64O-18 University deemed employer for certain purposes.

18. Subject to the provisions of P.L.1969, c.242 (C.18A:66-167 et seq.) and except as otherwise provided by law, the university shall be deemed to be an employer for the purposes of the "Public Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.), and shall also be deemed to be a "public agency or organization" within the meaning of section 71 of P.L.1954, c.84 (C.43:15A-71). The university's commissioned police officers shall be eligible for participation in and subject to the provisions of the "Police and Firemen's Retirement Systems Act," P.L.1944, c.255 (C.43:16A-1 et seq.), and the university shall be deemed an employer within the meaning of P.L.1944, c.255 (C.43:16A-1 et seq.).

C.18A:64O-19 Construction of act.

19. Nothing herein contained shall be construed to impair, annul or affect any vested rights, grants, privileges, exemptions, immunities, powers, prerogatives, franchises, or advantages heretofore obtained or enjoyed by the university or any constituent unit thereof, under any authority or any act of this State or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment or fund, all of which are hereby ratified and confirmed except insofar as the same may have expired, be or have been repealed or altered, or may be inconsistent with this act or with existing provisions of law; subject however, thereto and to all of the rights, obligations, relations, conditions, terms, trust, duties, and liabilities to which the same are subject.

C.18A:64O-20 Current officers unaffected; expectations.

20. The enactment and adoption of this act shall not, of itself, affect the official, operational, or organizational status of any officer of the university or any and all outstanding authorizations of any officer, agent, or employee to take specified action, or any and all outstanding commitments or undertakings of or by the university, except and only to the extent that any of the same may be inconsistent with this act.

C.18A:64O-21 Effect of establishment of body corporate and politic known as Kean University.

21. Upon the establishment of the body corporate and politic known as Kean University:

a. all appropriations, grants, debt service, research funds, and other monies available to Kean University prior to the effective date of this act and to become available shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. all other grants, gifts, other moneys and property available to Kean University prior to the effective date of this act and to become available to or for Kean University shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and federal law or otherwise;

c. all employees of Kean University prior to the effective date of this act shall become employees of the university. Nothing in this act shall be construed so as to deprive any person of any right of tenure or under any retirement system or to any pension, disability, social security or similar benefit, to which the person is entitled by law or contractually. All persons employed at Kean University shall continue to be represented by the majority representative that represented them on the effective date of this act, shall continue to be represented by the executive branch Statewide collective negotiations units they were in on the effective date of this act, and shall continue to be covered by the collective negotiations agreements that were in effect on the effective date of this act. Pursuant to section 12 of P.L.1986, c.42 (C.18A:64-21.1), the Governor shall continue to function as the public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), for persons employed at Kean University. The executive branch Statewide collective negotiations units referenced in this section are the units specified in subsection b. of section 1 of P.L.2005, c.142 (C.34:13A-5.10). The employees of Kean

University employed on the effective date of this act shall not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, promotions and health benefits. Nothing in this act shall be construed to deprive any person employed at Kean University of any tenure rights or to in any manner affect the tenure, rank, or academic track of any employees holding a faculty position. Such tenure, rank and academic track shall continue to be through Kean University and shall be held or granted pursuant to the authority of the board of trustees of Kean University for all current and future employees employed at Kean University. Nothing in this act shall be construed to deprive any officers or employees employed at Kean University of their rights, privileges, obligations or status under any pension, retirement, health benefits system, civil service law or any other law of this State;

d. all files, papers, records, equipment and other personal property of Kean University shall be transferred to the university; and

e. all orders, rules or regulations theretofore made or promulgated by Kean University shall continue in full force and effect as the orders, rules and regulations of the university until amended or repealed by the university.

C.18A:64O-22 Certain actions unaffected.

22. This act shall not affect actions or proceedings, civil or criminal, brought by or against Kean University, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the university as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, Kean University, and all such matters or proceedings pending before Kean University on the effective date of this act shall be continued by the university, as if the foregoing provisions had not taken effect.

C.18A:64O-23 Reference to public research university.

23. Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to Kean University, the same shall mean and refer to Kean University, herein referred to as "university," established as a public urban research university pursuant to the provisions of this act.

C.18A:64O-24 Powers of Secretary of Higher Education.

24. The general powers of supervision and control of the Secretary of Higher Education at the request of the Governor over Kean University

include the power to visit the university to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State.

C.18A:64O-25 Governance of contract claims and suits.

25. Notwithstanding any of the provisions of the "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to the contrary, contract claims and suits against the university shall be governed by that act.

C.18A:64O-26 Warranty by contractor.

26. Every contract or agreement negotiated, awarded or made pursuant to this act shall contain a suitable warranty by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the university shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

C.18A:64O-27 Violation, misdemeanor.

27. Any person willfully authorizing, consenting to, making or procuring to be made payment of university funds for or on account of any purchase, contract or agreement known to the person to have been made or entered into in violation of any of the provisions of this act shall be guilty of a misdemeanor.

C.18A:64O-28 Prohibitions relative to purchase, acquisitions of property or services.

28. The payment of any fee, commission or compensation of any kind or the granting of any gift or gratuity of any kind, either directly or indirectly, whether or not in connection with any purchase, sale or contract, to any person employed by Kean University, having any duties or responsibilities in connection with the purchase or acquisition of any property or services by the university, by or on behalf of any seller or supplier who has made, negotiated, solicited or offered to make and contract to sell or furnish real or personal property or services to the university is hereby prohibited. Any person offering, paying, giving, soliciting or receiving any fee, commission, compensation, gift or gratuity in violation of this section shall be guilty of a misdemeanor.

C.18A:64O-29 Terms of present board members.

29. The provisions of this act shall not alter the term of any member of the board, not specifically abolished herein, lawfully in office as of the effective date of this act, or require the reappointment thereof.

C.18A:64O-30 Construction.

30. No provision of this act shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the State of New Jersey.

C.18A:64O-31 Liberal construction.

31. This act, being deemed and declared necessary for the welfare of the State and the people of New Jersey to provide for the development of public higher education in the State and thereby to improve the quality and increase the efficiency of the public system of educational services of the State, shall be liberally construed to effectuate the purposes and intent thereof.

C.18A:64O-32 Allocation to the Department of State.

32. In accordance with the provisions of section 27 of P.L.1994, c.48 (C.18A:3B-27), the university is allocated to the Department of State for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution. Notwithstanding this allocation, the university shall be independent of any supervision or control of the Department of State or any board, commission, or officer thereof and the allocation shall not in any way affect the principles of institutional autonomy established by that act and as otherwise enumerated herein.

C.18A:64O-33 Rights, obligations of employers, employees unaffected.

33. Nothing in P.L.2021, c.282 (C.18A:64O-1 et al.) shall be construed to modify or contravene the rights and obligations of employers or employees under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

34. N.J.S.11A:6-6 is amended to read as follows:

State administrative leave.

11A:6-6. State administrative leave. Administrative leave for personal reasons including religious observances for full-time State employees or those employees of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, Montclair State University, and Kean University who perform services similar to those performed by employees of

the New Jersey State colleges who are in the career service shall be three working days per calendar year. Administrative leave shall not be cumulative and any administrative leave unused by an employee at the end of any year shall be cancelled.

35. N.J.S.11A:6-17 is amended to read as follows:

Supplemental compensation; employees of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, Montclair State University, and Kean University.

11A:6-17. Supplemental compensation; employees of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, Montclair State University, and Kean University. The supplemental compensation provided under this chapter shall also be paid to each employee of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, Montclair State University, and Kean University who performs services similar to those performed by employees of the New Jersey State colleges who are in the career service or who have been granted sick leave under terms and conditions similar to career service employees, including those employees of Rutgers, The State University who are members of the Newark Employees' Retirement System.

36. Section 3 of P.L.1994, c.48 (C.18A:3B-3) is amended to read as follows:

C.18A:3B-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3;

"Commission" means the New Jersey Commission on Higher Education established by this act;

"Council" means the New Jersey Presidents' Council established by this act;

"Council of County Colleges" means the New Jersey Council of County Colleges established pursuant to N.J.S.18A:64A-26;

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes;

"Educational research and services corporation" means a nonprofit corporation whose voting members are public research universities, State colleges, county colleges, public institutions of higher education primarily located in the State of New Jersey, and nonprofit independent institutions of higher education that receive direct State aid;

"Programmatic Mission" means all program offerings consistent within those levels of academic degrees or certificates that the institution has been authorized to grant by the State Board of Higher Education prior to the effective date of this act or approved thereafter by the commission;

"Public Research University" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, Montclair State University, and Kean University;

"State college" means any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes including any State college designated as a teaching university.

37. Section 6 of P.L.1994, c.48 (C.18A:3B-6) is amended to read as follows:

C.18A:3B-6 Powers, duties of governing boards of institutions of higher education.

6. The governing board of each public institution of higher education shall have the following general powers and duties to fulfill its mission and the Statewide goals in cooperation with other institutions and the State coordinating structures:

a. To develop an institutional plan and to determine the programs and degree levels to be offered by the institution consistent with this plan and the institution's programmatic mission;

b. To have authority over all matters concerning the supervision and operations of the institution including fiscal affairs, the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes, and capital improvements in accordance with law;

c. To set tuition and fees; however, prior to the date of the adoption of a tuition or fee schedule or an overall institutional budget, and with reasonable notice thereof, the governing board shall conduct a public hearing at such times and places as will provide those members of the college community who wish to testify with an opportunity to be heard;

d. To establish admission standards and requirements and standards for granting diplomas, certificates and degrees;

e. To recommend for appointment by the Governor, members to the institution's governing board. The recommendation shall be made with regard to the mission of the institution and the diversity of the community to be served;

f. To have final authority to determine controversies and disputes concerning tenure, personnel matters of employees not classified under Title 11A of the New Jersey Statutes, and other issues arising under Title 18A of the New Jersey Statutes involving higher education except as otherwise provided herein. Any matter arising under this subsection may be assigned

to an administrative law judge, an independent hearing officer or to a subcommittee of the governing board for hearing and initial decision by the board, except for tenure hearings under N.J.S.18A:6-18. Any hearings conducted pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of a governing board of a public institution of higher education is appealable to the Superior Court, Appellate Division;

g. To invest and reinvest the funds of the institution; however, institutions which invest the funds of the institution through the Director of the Division of Investment in the Department of the Treasury on or before the effective date of this act shall continue to do so, unless this requirement is waived by the State Treasurer on an annual basis, which waiver shall not be unreasonably withheld;

h. To retain legal counsel of the institution's choosing. State entities may choose representation by the Attorney General; however, as to claims of a tortious nature, the institution shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the institution elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New Jersey Tort Claims Act" only. The institution shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);

i. To be accountable to the public for fulfillment of the institution's mission and Statewide goals and for effective management of the institution;

j. To submit a request for State support to the Division of Budget and Accounting in the Department of the Treasury and to the commission in accordance with the provisions of this act;

k. To have prepared and made available to the public an annual financial statement, and a statement setting forth generally the moneys expended for government relations, public relations and legal costs;

l. To have prepared an annual independent financial audit, which audit and any management letters regarding that audit shall be deemed public documents.

These powers and duties are in addition to and not a limitation of the specific powers and duties provided for the governing board of each public institution under chapter 64, 64A, 64G, 64E, or 64M of Title 18A of the New

Jersey Statutes, P.L.2017, c.178 (C.18A:64N-1 et al.), or P.L.2021, c.282 (C.18A:64O-1 et al.). If the provisions of this section are inconsistent with these specific powers and duties, the specific powers and duties shall govern.

38. Section 12 of P.L.1994, C.48 (C.18A:3B-12) is amended to read as follows:

C.18A:3B-12 Executive board.

12. a. There shall be established an executive board which performs such duties as determined by the council. The executive board shall be composed of 17 members as follows:

The president of Rutgers, The State University;

The president of New Jersey Institute of Technology;

The president of Rowan University;

The president of Montclair State University;

The president of Kean University;

Three presidents of State Colleges who shall be selected by the presidents of this sector;

Five presidents of county colleges who shall be selected by the presidents of this sector;

Three presidents of independent institutions who shall be selected by the presidents of this sector;

One president of the proprietary schools which have been authorized to offer licensed degree programs who shall be selected by the presidents of these proprietary schools.

b. The chair of the executive board shall be rotated among the following: one of the presidents of Rutgers, The State University of New Jersey, the president of Rowan University, the president of New Jersey Institute of Technology, the president of Montclair State University, and the president of Kean University; a president selected by the presidents of the State Colleges; a president selected by the presidents of the county colleges; and a president selected by the presidents of the independent institutions. The chair of the executive board shall serve for a two-year period. Biennially, the executive board shall select the chair in the manner provided above, but not necessarily in the order provided above.

c. The chair of the executive board shall also serve as the chair of the council.

39. Section 1 of P.L.2009, c.308 (C.18A:3B-46) is amended to read as follows:

C.18A:3B-46 Definitions relative to structure and fiscal management of higher education.

1. As used in this act:

"Commission" means the New Jersey Commission on Higher Education established pursuant to section 13 of P.L.1994, c.48 (C.18A:3B-13);

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, Montclair State University, and Kean University;

"State college" means the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

40. Section 1 of P.L.2018, c.111 (C.18A:64-94) is amended to read as follows:

C.18A:64-94 Findings, declarations relative to the New Jersey Civic Information Consortium.

1. The Legislature finds and declares that:

a. The people of New Jersey need accurate, relevant, timely, and trustworthy news and information to be civically engaged, make informed voting decisions, and work toward common solutions in their communities.

b. News media operations in the State have endured major cutbacks in recent years, resulting in less coverage of important State matters. These cutbacks not only hurt the news media's financial health, but also harm communities by reducing the news and civic information to which residents have access.

c. This situation has resulted in the need to authorize the establishment of, and to fund, the New Jersey Civic Information Consortium (consortium), a consortium of six State public universities, to advance research and innovation in the field of media and technology to better inform the State's communities to benefit the State's civic life and evolving information needs.

d. By leveraging the resources, knowledge, and expertise of the State's public universities through a partnership with The College of New Jersey, Kean University, Montclair State University, the New Jersey Institute of Technology, Rowan University, and Rutgers, The State University, the consortium could bolster public-interest journalism, civic information, and media innovation.

e. The consortium would provide grants that support news and information that benefit the State's civic life and meet the evolving information needs of New Jersey's underserved communities.

f. Investments from the consortium, supporting the State's academia, media, innovation, and community service sectors, could advance these goals

while ensuring financial sustainability, accountability, and lasting public faith in both the consortium and the work it supports.

g. It is therefore necessary and in the public interest to establish the consortium and provide a funding source for the awarding of grants to organizations working to meet these goals.

41. Section 2 of P.L.2018, c.111 (C.18A:64-95) is amended to read as follows:

C.18A:64-95 Definitions relative to the New Jersey Civic Information Consortium.

2. As used in P.L.2018, c.111 (C.18A:64-94 et seq.):

"Board of directors" or "board" means the board of directors of the New Jersey Civic Information Consortium established pursuant to section 3 of P.L.2018, c.111 (C.18A:64-96).

"Consortium" means the New Jersey Civic Information Consortium established pursuant to section 3 of P.L.2018, c.111 (C.18A:64-96).

"In-kind contribution" means a contribution of goods or services, other than a cash grant.

"Local community organization" means a locally-based organization serving a community of people having shared interests that is incorporated, organized, and operated in such a manner as to qualify as a nonprofit corporation described in section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3).

"Member university" means The College of New Jersey, Kean University, Montclair State University, the New Jersey Institute of Technology, Rowan University, and Rutgers, The State University.

42. Section 3 of P.L.2018, c.111 (C.18A:64-96) is amended to read as follows:

C.18A:64-96 New Jersey Civic Information Consortium.

3. a. There is established the New Jersey Civic Information Consortium which shall consist of the following member universities: The College of New Jersey; Kean University; Montclair State University; the New Jersey Institute of Technology; Rowan University; and Rutgers, The State University. The purpose of the consortium shall be to advance research and innovation in the field of media and technology to benefit the State's civic life and evolving information needs.

b. The consortium shall be established as a nonprofit corporation that is an educational and charitable corporation validly existing and in good standing

under the "New Jersey Nonprofit Corporation Act," P.L.1983, c.127 (N.J.S.15A:1-1 et seq.), is incorporated, organized, and operated in such a manner as to qualify as a nonprofit corporation described in section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3), and structured as a supporting organization to its member universities in a manner that the Internal Revenue Service would deem the consortium to be a public charity, and shall be subject to all applicable State laws governing nonprofit corporations. The consortium shall be accountable and subject to the same federal Internal Revenue Code disclosure requirements of any nonprofit organization pursuant to 26 U.S.C. s.6033, such as making public its Internal Revenue Service Form 990 and filing a copy of that form and a copy of its annual financial report and audited financial reports with the Attorney General.

43. Section 4 of P.L.2018, c.111 (C.18A:64-97) is amended to read as follows:

C.18A:64-97 Board of directors.

4. a. The consortium shall have a board of directors that shall set strategic priorities and metrics to guide the consortium's grant-making and other initiatives, as well as to approve grants pursuant to section 7 of P.L.2018, c.111 (C.18A:64-100).

b. The board of directors shall consist of 16 members as follows:

(1) two members appointed by the Governor who shall not be of the same political party;

(2) one member appointed by the President of the Senate, and one member appointed by the Minority Leader of the Senate;

(3) one member appointed by the Speaker of the General Assembly, and one member appointed by the Minority Leader of the General Assembly;

(4) six members, no more than four of whom shall be of the same political party, appointed by the president of each member university, each of whom shall have background or experience in the field of journalism, media, or technology; and

(5) four members, no more than two of whom shall be of the same political party, appointed by a majority vote of the 12 board members appointed pursuant to paragraphs (1) through (4) of this subsection, of which: (a) one member shall represent the media sector; (b) one member shall represent the technology sector; and (c) two members, not employed by the State or a member university at the time of the member's appointment, shall have demonstrated a record of commitment to public service and understand the importance of media and technology to the State's future.

c. Each board member shall serve a term of four years, except that the member representing the New Jersey media sector shall serve an initial term of one year and the member representing the New Jersey technology sector shall serve an initial term of two years. No board member shall serve more than two four-year terms. In the appointment of members to the board, every effort shall be made to strive for diversity and balance of representation according to gender, race, ethnicity, and geography within any limits allowed under law. Any vacancies in the appointed membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. Board members shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duties within the limits of funds available to the board.

44. Section 2 of P.L.1985, c.103 (C.18A:64J-2) is amended to read as follows:

C.18A:64J-2 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Consortium" means a cooperative arrangement between two or more institutions of higher education to pursue a program for strengthening academic programs, improving administration or providing for other special needs.

e. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. "Private institutions of higher education" means independent colleges, universities or institutes incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

g. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law.

h. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

45. Section 2 of P.L.1985, c.104 (C.18A:64J-9) is amended to read as follows:

C.18A:64J-9 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private universities to existing industry, but also adapt these innovations to the requirements of individual business operations.

46. Section 2 of P.L.1985, c.105 (C.18A:64J-16) is amended to read as follows:

C.18A:64J-16 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network

of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

47. Section 2 of P.L.1985, c.106 (C.18A:64J-23) is amended to read as follows:

C.18A:64J-23 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial

support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facility" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

48. Section 2 of P.L.1985, c.366 (C.18A:64J-30) is amended to read as follows:

C.18A:64J-30 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education which are provided substantial and concentrated financial support to promote their development into national level bases for innovative technology research;

b. "Business incubation facilities" means low cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L.1985, c.102 (C.52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education which are of strategic importance to the New Jersey economy under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

49. Section 2 of P.L.1985, c.397 (C.18A:64J-39) is amended to read as follows:

C.18A:64J-39 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research;

b. "Business incubation facilities" means low-cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L.1985, c.102 (C.52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

50. Section 4 of P.L.2009, c.4 (C.18A:65A-1) is amended to read as follows:

C.18A:65A-1 Implementation of energy savings improvement program by public institution of higher education; definitions.

4. a. (1) The board of trustees of a public institution of higher education may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a board of trustees may enter into an energy savings services contract with an energy services company to implement the program or the board may authorize separate contracts to implement the program. The provisions of: N.J.S.18A:64-1 et seq., in the case of any State college; P.L.1995, c.400 (C.18A:64E-12 et seq.), in the case of the New Jersey Institute of Technology; N.J.S.18A:65-1 et seq., in the case of Rutgers, the State University; P.L.2012, c.45 (C.18A:64M-1 et al.), in the case of Rowan University; P.L.2017, c.178 (C.18A:64N-1 et al.), in the case of Montclair State University; P.L.2021, c.282 (C.18A:64O-1 et al.), in the case of Kean University; and N.J.S.18A:64A-1 et seq., in the case of the county colleges; shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

In the case of Rutgers, the State University, references in this section to the board of trustees shall mean the Rutgers board of governors.

(2) An educational facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, notwithstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the

board of trustees, at the time of the award of the proposal, demonstrates that there is an economic advantage to the board of trustees implementing the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A public institution of higher education may enter into an energy savings services contract through public advertising for bids and the receipt of bids therefor.

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(c) Where there is a need for compatibility of a direct digital control system with previously installed control systems and equipment, the bid specifications may include a requirement for proprietary goods, and if so included, the bid specification shall set forth an allowance price for its supply which shall be used by all bidders in the public bidding process.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to the public bidding requirements of the board of trustees. A contract with an energy savings company shall include, but not be limited to:

preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a board of trustees may designate or appoint an employee of the public institution of higher education with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the board of trustees of the public institution of higher education.

(4) A subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a board of trustees and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the board of trustees when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall

not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility" or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

(2) Any lease-purchase or other agreement entered into in connection with an energy savings improvement program may be a general obligation of the public institution of higher education pursuant to this subsection, and may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the board of trustees may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A board of trustees may arrange for incurring energy savings obligations to finance an energy savings improvement program and may enter into any agreement with the New Jersey Educational Facilities Authority or other persons in connection with the issuance by the authority of its obligations on behalf of the public institution of higher education in order to finance the institution's energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the board, or incurred as a general obligation of the public institution of higher education in connection with the issuance by the New Jersey Educational Facilities Authority of bonds or notes pursuant to N.J.S.18A:72A-2 et seq., or, in the case of a county college, by a sponsoring county as a refunding bond pursuant to N.J.S.40A:2-52 et seq., including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Maturity schedules of lease-purchase agreements or energy savings obligations shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the board of trustees or by a qualified third party retained by the board for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings

improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.

(2) To implement an energy savings improvement program, a board of trustees shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall:

(a) contain the results of an energy audit;

(b) describe the energy conservation measures that will comprise the program;

(c) estimate greenhouse gas reductions resulting from those energy savings;

(d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;

(e) include an assessment of risks involved in the successful implementation of the plan;

(f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;

(g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;

(h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and

(i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the board of trustees shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the board of trustees maintains its own website, it shall also post the plan on that site. The Board of Public Utilities may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through

energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent the financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the public institution of higher education who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy savings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the board of trustees then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a board of trustees that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the board of trustees.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net

present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the board of trustees the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the board of trustees, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the board of trustees for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a board of trustees to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a board of trustees shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this section, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administrative building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking, maintenance, storage or utility facility or

energy conservation measures and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a public institution of higher education to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The State Treasurer and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

51. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

C.18A:66-169 Definitions.

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

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c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. (Deleted by amendment, P.L.1994, c.48).

e. (Deleted by amendment, P.L.2012, c.45)

f. "County colleges" means the colleges so defined in N.J.S.18A:64A-1.

g. "Division of Pensions" means the division established in the Department of the Treasury pursuant to section 1 of P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the State and county colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program, and after the effective date of P.L.2008, c.89, means an adjunct faculty member or a part-time instructor whose employment agreement begins after that effective date.

k. "New Jersey Institute of Technology" means the Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes and any former State college designated as a

public research university pursuant to P.L.2012, c.45 (C.18A:64M-1 et al.), P.L.2017, c.178 (C.18A:64N-1 et al.), and P.L.2021, c.282 (C.18A:64O-1 et al.).

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C.s. 80a-1 et seq.

52. Section 4 of P.L.1969, c.242 (C.18A:66-170) is amended to read as follows:

C.18A:66-170 Alternate benefit program.

4. All full-time officers and all full-time members of the faculty of Rutgers, The State University, the Newark College of Engineering, Rowan University, Montclair State University, Kean University, the State and county colleges and all regularly appointed teaching and administrative staff members in applicable positions, as determined by the Director of the Division of Pensions in the Department of the Treasury, shall be eligible and shall participate in the alternate benefit program, except those persons appointed in a part-time or temporary capacity, physicians and dentists holding employment in positions titled intern, resident or fellow on or after the effective date of this amendatory act, persons compensated on a fee basis, persons temporarily in the United States under an F or J visa and members of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan, who did not elect to transfer to the alternate benefit program in accordance with the provisions of chapter 64C or 65 of Title 18A of the New Jersey Statutes, P.L.1967, c.278 (C.18A:66-130 et seq.), or P.L.1967, c.281 (C.18A:66-142 et seq.), or P.L.1968, c.181 (C.18A:66-154 et seq.). An eligible person who has been enrolled in the alternate benefit program for at least one year pursuant to this section may continue to be enrolled in the program, notwithstanding promotion or transfer to a position within the institution not otherwise eligible for the program.

Any person participating in the alternate benefit program shall be ineligible for membership in the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan and any person electing to participate in the alternate benefit program shall thereby waive all rights and benefits provided by the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan as a member of said fund, system or plan, except as herein and otherwise provided by law or under terms of the Group Annuity Plan.

Any person required to participate in the alternate benefit program by reason of employment, who at the time of such employment is a member of the Teachers' Pension and Annuity Fund, shall be permitted to transfer his membership in said fund to the Public Employees' Retirement System, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Any such new employee who is a member of the Public Employees' Retirement System will be permitted to continue his membership in that system, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Such waivers shall be accomplished by filing forms satisfactory to the Division of Pensions within 30 days of the beginning date of employment.

Any person receiving a benefit by reason of his retirement from any retirement or pension system of the State of New Jersey or any political subdivision thereof shall be ineligible to participate in the alternate benefit program.

No person eligible for participation in the alternate benefit program shall be eligible for, or receive, benefits under chapters 4 and 8B of Title 43 of the Revised Statutes.

The alternate benefit programs established pursuant to this act are deemed to be pension funds or retirement systems for purposes of P.L.1968, c.23 (C.43:3C-1 et seq.).

53. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

C.18A:66-173 Transfer to alternate benefit program.

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set

forth in section 38 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and

supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under N.J.S.18A:66-36 or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than two consecutive years elapse in which no employer contributions to an alternate benefit program are required.

54. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

C.18A:66-174 Reduction of payments from compensation of participants; employer contributions.

8. (a) Rutgers, The State University and the New Jersey Institute of Technology shall reduce the compensation of each participant in the alternate benefit program and pay over to the insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall provide for reductions from the compensation of each participant in the alternate benefit program employed by the State and county colleges of an employee contribution equal

to 5% of the participant's base salary and pay this amount to the insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. s.414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, and Kean University of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107), which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and Benefits of the number and base salary of participants employed by the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107), which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Division of Pensions and Benefits as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107). If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Director of the Division of Pensions and

Benefits, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

55. Section 24 of P.L.1969, c.242 (C.18A:66-190) is amended to read as follows:

C.18A:66-190 Authority to enter into agreements for annuity purchases; method of payment; limitations.

24. The Board of Governors of Rutgers, The State University, the Board of Trustees of the New Jersey Institute of Technology, the Board of Trustees of Rowan University, the Board of Trustees of Montclair State University, the Board of Trustees of Kean University, and the boards of trustees of State and county colleges, are hereby authorized to enter into an agreement with each employee participating in the alternate benefit program whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the agreement of the respective institution to use a corresponding amount to purchase an annuity for such employee so as to obtain the benefits afforded under section 403(b) of the federal Internal Revenue Code, as amended. Any such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to amounts earned while the agreement is in effect; provided, however, that such agreement may be terminated after it has been in effect for a period of not less than one year upon notice in writing by either party, and provided further that not more than one such agreement shall be entered into during any taxable year of the employee. For the purposes of this section, any annuity or other contract which meets the requirements of section 403(b) of the federal Internal Revenue Code, as amended, may be utilized. The amount of the reduction in salary under any agreement entered into between the institutions and any employee pursuant to this section shall not exceed the limitations set forth in P.L.93-406 (Employment Retirement Income Security Act of 1974) and Section 415(c) of the Internal Revenue Code of 1954 as amended for such year.

Amounts payable pursuant to this section by an institution on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

56. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

C.18A:66-191 Prohibited payments; authorized payments.

25. No retirement, death or other benefit shall be payable by the State, Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, or the Division of Pensions under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated insurers or mutual fund companies under the terms of the contracts.

57. Section 3 of P.L.1968, c.142 (C.18A:71-30) is amended to read as follows:

C.18A:71-30 Definitions.

3. As used in this act, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(a) The term "board" shall mean the Board of Directors of the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(b) (Deleted by amendment, P.L.1994, c.48).

(c) The term "department" shall mean the Department of State.

(d) The term "fund" shall mean the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(e) The term "higher education" shall mean that education which is provided by any or all of the public institutions of higher education as herein defined or any or all equivalent private institutions.

(f) The term "public institutions of higher education" shall mean and include Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the six State colleges, the county colleges, and any other public universities, colleges or county colleges now or hereafter established or authorized by law.

58. N.J.S.18A:71A-4 is amended to read as follows:

Board of the authority.

18A:71A-4. a. The Board of the Higher Education Student Assistance Authority shall consist of 18 members as follows: the State Treasurer, ex-officio, or a designee; the Secretary of Higher Education, ex-officio, or a designee from among the public members of the commission; the chairperson of the Board of Directors of the Educational Opportunity Fund, ex-officio, or a designee from among the public members of the board; five representatives from eligible institutions in this State, including one from

Rutgers, the State University, one from either the New Jersey Institute of Technology, Rowan University, Montclair State University, or Kean University, one from the county colleges, one from the State colleges, and one from the independent institutions of higher education in the State; two students from different collegiate institutional sectors; seven public members who shall be residents of this State, including one who shall represent a lender party to a participation agreement with the authority; and the executive director of the authority, or designee, who shall be an ex-officio, non-voting member of the board.

b. The seven public members, including the lender member, shall be appointed by the Governor with the advice and consent of the Senate. No more than four of the public members shall be members of the same political party. The institutional representatives shall be nominated by the respective institution in the case of Rutgers, the State University, New Jersey Institute of Technology, Rowan University, Montclair State University, and Kean University. The remaining institutional representatives shall be nominated by the respective sector association. Institutional representatives shall be appointed by the Governor with the advice and consent of the Senate. The student members shall be the individuals that the Student Advisory Committee elects as its chairperson and vice-chairperson. The Student Advisory Committee shall be created by the board to include students from all collegiate institutional sectors. The necessary appointments shall be made within 45 days of the enactment of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.).

c. Public and institutional members of the board shall serve a term of four years and until a successor is appointed and qualified, except in the case of the first members so appointed, four of whom shall be appointed for a term of four years, four of whom shall be appointed for a term of three years, two of whom shall be appointed for a term of two years, and two of whom shall be appointed for a term of one year. Student members shall serve a term of office not to exceed two years. Any vacancy in the membership of the board, occurring otherwise than by expiration of term, shall be filled in the same manner as the original appointment or election was made, but for the unexpired term only.

59. Section 3 of P.L.2000, c.163 (C.18A:71B-55) is amended to read as follows:

C.18A:71B-55 Definitions regarding scholarship.

3. As used in this act, the following terms shall have the following meanings:

"Board" means the Board of Trustees of the Tony Pompelio Commemorative Scholarship Fund for the children of crime victims created pursuant to this act.

"Chairman" means the Chairman of the Violent Crimes Compensation Board.

"Executive director" means the chief executive and administrative officer of the authority.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-1 et seq., the "Higher Education Student Assistance Authority Law," or any body, entity, commission, or department succeeding to the principal functions thereof or to whom the powers conferred upon the authority by N.J.S.18A:71A-1 et seq. shall be given by law.

"Public Institutions of Higher Education" means the State colleges and universities created pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the county colleges; the New Jersey Institute of Technology; Rutgers, the State University; Rowan University; Montclair State University; Kean University; and any other public universities, colleges, county colleges and junior colleges now or hereafter established or authorized by law.

60. Section 1 of P.L.2019, c.431 (C.18A:71B-104) is amended to read as follows:

C.18A:71B-104 Definitions relative to engineering and science careers.

1. As used in this act:

"Partner high school" means a high school that has been selected for participation in the New Jersey "Accessing Careers in Engineering and Science (ACES) Program" pursuant to subsection a. of section 3 of this act.

"Public or independent research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, Montclair State University, Kean University, Stevens Institute of Technology, Princeton University, and Seton Hall University.

"Underrepresented student" means a student who is a member of an underserved community or a member of a group that is underrepresented in the STEM fields.

61. Section 2 of P.L.2019, c.431 (C.18A:71B-105) is amended to read as follows:

C.18A:71B-105 "Accessing Careers in Engineering and Science (ACES) Program."

2. a. The Secretary of Higher Education shall establish the New Jersey "Accessing Careers in Engineering and Science (ACES) Program." The

purposes of the program are to increase the participation of underrepresented students in the science, technology, engineering, and mathematics (STEM) fields; and to develop a larger and more diverse STEM workforce in the State. The ACES Program shall consist of two components: (1) a residential pre-college summer program for selected high school students established pursuant to section 3 of this act; and (2) an undergraduate ACES Scholar program established pursuant to section 4 of this act.

b. The secretary shall select up to eight public or independent research universities in New Jersey to implement the ACES Program, based upon the university's interest in participating in the program and subject to the availability of funds. A public or independent research university that wants to participate shall submit an application to the secretary, which includes a proposal for implementing both the pre-college summer program and the undergraduate ACES Scholar program in accordance with sections 3 and 4 of this act. The university's proposal shall also include the university's plans for funding its share of the program costs and for obtaining the necessary private sector funding pursuant to section 5 of this act.

62. N.J.S.18A:72A-3 is amended to read as follows:

Definitions.

18A:72A-3. As used in this act, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

"Authority" means the New Jersey Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law;

"Bond" means bonds or notes of the authority issued pursuant to this chapter;

"County college capital project" means any capital project of a county college certified pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2) and approved by the State Treasurer for funding pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

"Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment, and shall include a dormitory of a public or private school, or of a public or private institution of higher education;

"Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking maintenance storage or utility facility and other

structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"Emerging needs program" means a program at one or more public or private institutions of higher education directed to meeting new and advanced technology needs or to supporting new academic programs in science and technology;

"Higher education equipment" means any property consisting of, or relating to, scientific, engineering, technical, computer, communications or instructional equipment;

"Participating college" means a public institution of higher education or private college which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

"Project" means a dormitory or an educational facility or any combination thereof, or a county college capital project;

"Private college" means an institution for higher education other than a public college, situated within the State and which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level;

"Private institution of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid;

"Public institution of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law;

"School" means a secondary school, military school, or boarding school;

"University" means Rutgers, The State University.

63. N.J.S.18A:72A-26 is amended to read as follows:

Powers and duties of treasurer; institutions under State jurisdiction.

18A:72A-26. In order to provide new dormitories and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing a dormitory or dormitories or additions or improvements thereto, or for any one or more of said purposes, but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of any consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the treasurer as to such as are located on land owned by the State or by the authority, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, Rowan University, Montclair State University, or Kean University, the board of trustees of a State college or the board of trustees of a county college as to such as are located on land owned by the university or by the particular college respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing dormitories thereon owned by the State or owned by the board of trustees of a county college or the power to sell and to convey to the authority such title as the university or the college respectively may have in any such land and any existing dormitories thereon.

b. The power to lease to the authority any land and any existing dormitories thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority, and to make available, any such land and existing dormitories conveyed or leased to the authority under subsections a. and b. of this section, and any new dormitories erected upon such land or upon any other land owned by the authority, any rentals to be payable, as to the university or as to any such college from available funds other than moneys appropriated to it by the State.

d. The power and duty, upon receipt of notice of any assignment by the authority of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority.

64. N.J.S.18A:72A-27.1 is amended to read as follows:

Additional powers of boards of governors, trustees.

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under N.J.S.18A:72A-26 and N.J.S.18A:72A-27 the treasurer, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, the board of trustees of a State college, the board of trustees of Rowan University, the board of trustees of Montclair State University, the board of trustees of Kean University, and the board of trustees of a county college shall also have the same power and be subject to the same duties in relation to any conveyance, lease or sublease made under subsection a., b., or c. of N.J.S.18A:72A-26, with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of N.J.S.18A:72A-26 including, without limitation, student unions and parking facilities.

65. Section 48 of P.L.2009, c.90 (C.18A:72A-82) is amended to read as follows:

C.18A:72A-82 Definitions relative to higher education partnership agreements.

48. As used in sections 48 and 49 of P.L.2009, c.90 (C.18A:72A-82 and C.18A:72A-83):

"Board" means the Local Finance Board established in the Division of Local Government Services in the Department of Community Affairs.

"Bonds" mean bonds, notes or other obligations issued to finance or refinance higher education projects by a municipality, or on behalf of a municipality by a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.).

"Higher education partnership agreement" means an agreement between a municipality and an institution of higher education providing for the issuance of bonds by the municipality, a county improvement authority or a redevelopment entity, and the pledge of payments by the institution of higher education to secure those bonds to finance a higher education project, or part thereof.

"Higher education project" means the establishment and construction of higher education buildings and the expansion and construction of additional facilities at, and the acquisition of additional and upgraded equipment for existing higher education buildings, including but not limited to the planning, erecting, purchasing, improving, developing, constructing, reconstructing, extending, rehabilitating, renovating, upgrading, demolishing and equipping of facilities at institutions of higher education.

"Institution of higher education" means: Rutgers, The State University; a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the New Jersey Institute of Technology; Rowan University; Montclair State University; Kean University; a county college and any other public university or college now or hereafter established or authorized by State law; and any college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986, or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

66. Section 3 of P.L.1985, c.493 (C.18A:72H-3) is amended to read as follows:

C.18A:72H-3 Definitions.

3. As used in this act:

a. "Auditory impairment" means an inability to hear within normal limits due to a physical impairment or dysfunction of auditory mechanisms characterized by: (i) deafness, (ii) hearing impairment, (iii) hardness of hearing, or (iv) deaf-blindness. "Deaf" means an auditory impairment is so severe that the individual does not process linguistic information through hearing, with or without amplification, and the student's educational performance is adversely affected. "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, which adversely affects the individual's educational performance. "Deaf-blind" means concomitant hearing and visual disabilities, the combination of which causes such severe communication and other developmental and educational needs that the child cannot be accommodated in special education programs solely for children with deafness or children with blindness.

b. "Competent authority" means any doctor of medicine or any doctor of osteopathy licensed to practice medicine and surgery in this State.

c. (Deleted by amendment, P.L.1994, c.48).

d. "Eligible student" means any student admitted to a public or independent institution of higher education who has a visual impairment, auditory impairment or specific learning disability within guidelines established by the Commission on Higher Education pursuant to regulations promulgated under P.L.1985, c.493 (C.18A:72H-1 et seq.).

e. "Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Learning disability" means a significant barrier to learning caused by a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself as a disability that affects the ability to listen, think, speak, read, write, spell, or do mathematical calculations. The disorder includes conditions such as perceptual disability, brain injury, attention deficit hyperactivity disorder, dyslexia, and developmental aphasia. This term shall not include learning problems which are primarily the result of visual, hearing, or motor disabilities, intellectual disabilities, emotional disturbances, or environmental, cultural, or economic disadvantage.

g. "Program" means the Higher Education Services Program for Students with Visual Impairments, Auditory Impairments, and Learning Disabilities established pursuant to this act.

h. "Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the State colleges and the county colleges.

i. "Support services" or "supportive services" means services that assist eligible students in obtaining a college education and include, but are not limited to, interpreters, note takers, and tutors.

j. "Visual impairment" means when an individual's better eye with correction does not exceed 20/200 or where there is a field defect in the better eye in which the diameter of the field is no greater than 20 degrees.

67. Section 2 of P.L.2005, c.379 (C.34:11-56.59) is amended to read as follows:

C.34:11-56.59 Definitions relative to prevailing wage levels for certain employees.

2. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development or the commissioner's duly authorized representatives.

"Building services" means any cleaning or building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building, except that "building services" shall not include any maintenance work or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Leased by the State" means that not less than 55% of the property or premises is leased by the State, provided that the portion of the property or premises that is leased by the State measures more than 20,000 square feet.

"Prevailing wage for building services and covered airport or related location workers" means the wage and benefit rates designated by the commissioner based on the determinations made by the General Services Administration pursuant to the federal McNamara-O'Hara Service Contract Act of 1965 (41 U.S.C. s.6701 et seq.), for the appropriate localities and classifications of building service employees; provided, however, that in no event shall the prevailing wage rate applicable to a covered airport or related location worker on and after September 1, 2021 and every year thereafter be less than the following:

(1) any otherwise applicable minimum wage rate established through a policy of the Port Authority of New York and New Jersey; and

(2) an amount of wages or supplements equal to the rate for health and welfare for all occupations, designated by the commissioner based on the determinations made by the federal Department of Labor pursuant to the McNamara-O'Hara Service Contract Act of 1965 (41 U.S.C. s.6701 et seq.) for the geographic region in which the covered airport location is located and in effect on the date of the designation by the commissioner; and

(3) paid leave equal to the paid leave requirements designated by the commissioner the immediately preceding August 1, based on the determinations made by the General Services Administration pursuant to the McNamara-O'Hara Service Contract Act of 1965 (41 U.S.C. s.6701 et seq.).

"The State" means the State of New Jersey and all of its departments, bureaus, boards, commissions, agencies and instrumentalities, including any State institutions of higher education, but does not include political subdivisions.

"State institutions of higher education" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, Montclair State University, and Kean University, and any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, but does not include any county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

"Covered airport or related location" means the Newark Liberty International Airport and the Newark Liberty International Airport Train Station.

"Covered airport or related location employer" means:

(1) any person, corporation, limited liability company, or association employing any covered airport or related location worker in an occupation, industry, trade, business or service; or

(2) any person who contracts with a person to perform work related to the preparation or delivery of food for consumption on airplanes departing from a covered airport or related location.

"Covered airport or related location employer" shall not include a public agency.

"Covered airport or related location worker" means:

(1) any person employed to perform work at a covered airport or related location, provided at least half of the employee's time during any workweek is performed at a covered airport and related location; or

(2) any person who performs work related to the preparation or delivery of food for consumption on airplanes departing from a covered airport or related location.

"Covered airport or related location worker" shall not include persons employed in an executive, administrative, or professional capacity as defined in paragraph 1 of subsection (a) of section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. s.213), persons employed by a public agency.

"Public agency" means:

(1) any department or agency of the State of New Jersey and any political subdivision thereof;

(2) the New Jersey Transit Corporation; and

(3) the Port Authority of New York and New Jersey.

68. Section 12 of P.L.1978, c.39 (C.52:18A-174) is amended to read as follows:

C.52:18A-174 Deferred compensation plan expanded.

12. Subject to the independent approval of the State Treasurer, the board may authorize the transfer of funds necessary to permit individuals employed at the New Jersey Institute of Technology, Rutgers, The State University, Rowan University, Montclair State University, Kean University, and any other agency, authority, commission, or instrumentality of State government which has an independent corporate existence, to participate in the plan.

69. Section 1 of P.L.1959, c.40 (C.52:27B-56.1) is amended to read as follows:

C.52:27B-56.1 Joint purchases.

1. The Director of the Division of Purchase and Property may, by joint action, purchase any articles used or needed by the State and the Palisades Interstate Park Commission, the New Jersey Highway Authority, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, Rowan University, Montclair State University, Kean University, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Mortgage Finance Authority, the New Jersey Health Care Facilities Financing Authority, the New Jersey Education Facilities Authority, the New Jersey Economic Development Authority, the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority or any other agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

70. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 283

AN ACT concerning State aid to certain school districts, supplementing P.L.2007, c.260 (C.18A:7F-43), and making an appropriation.

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

C.18A:7F-71 Military impact aid.

1. In addition to any other State aid provided pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), a school district may receive military impact aid if, in the prebudget year, the school district received a Basic Support Payment of federal Impact Aid under section 7003 of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. s.7703) and the district provides free public education to federally connected children whose parents are on active duty in the uniformed services. The amount of military impact aid provided to a district pursuant to this section shall be calculated as follows:

MIA = (PPLTL – PPIA) x REFCMS

where

PPLTL is the per pupil general fund tax levy, which is derived by dividing the prebudget year general fund tax levy by resident enrollment, without the inclusion of federally connected children whose parents are on active duty in the uniformed services and who otherwise are included in the calculation of resident enrollment as defined pursuant to section 3 of P.L.2007, c.260 (C.18A:7F-45);

PPIA is the per pupil federal impact aid amount, which is the result of dividing the amount of a school district's Basic Support Payment received in the prebudget year by the number of federally connected children whose parents are on active duty in the uniformed services; and

REFCMS is the resident enrollment of federally connected children whose parents are on active duty in the uniformed services;

A school district shall not receive military impact aid pursuant to this section if the difference between PPTL and PPIA is negative.

2. Such sums as are necessary to provide additional aid to a school district for military impact aid determined pursuant to section 1 of this act are appropriated from the Property Tax Relief Fund to the Department of Education, subject to the approval of the Director of the Division of Budget and Accounting.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 284

AN ACT designating the Department of Health State office building in the City of Trenton as the "Judith M. Persichilli Building."

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

1. The Legislature finds and declares that:

a. New Jersey Department of Health Commissioner Judith M. Persichilli has served the State of New Jersey for decades in various healthcare positions.

b. Commissioner Persichilli began her career of service as an intensive care nurse, working with the most critical patients.

c. Prior to her appointment as the 22nd Commissioner of Health, Commissioner Persichilli was the Chief Executive Officer at St. Francis Medical Center in Trenton, President Emerita of Catholic Health East Trinity Health, and the acting Chief Executive Officer of University Hospital in Newark.

d. Commissioner Persichilli is the recipient of several honors and awards, including induction into the New Jersey State Nurses Association Hall of Honor in 2006, the 2008 Richard J. Hughes Humanitarian Award, and the 2011 Edward J. Ill Excellence in Medicine Award for Outstanding Medical Executive.

e. Throughout the COVID-19 pandemic, Commissioner Persichilli has guided the State through the worst health crisis in 100 years with her strong leadership and unflappable demeanor.

f. Commissioner Persichilli's communication, collaboration, and responsiveness during this time has been invaluable to the day-to-day management of the pandemic.

g. It is appropriate that the new Department of Health State building located at 55 North Willow Street in the City of Trenton should bear the name of a woman who, through her tireless public service and leadership in the face of a once in a century pandemic, continuously provides a model of excellence and commitment that will serve to inspire and encourage others.

2. The State Department of Health office building located at 55 North Willow Street in the City of Trenton is designated as the "Judith M. Persichilli Building."

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 285

AN ACT concerning the Drug Utilization Review Board and amending P.L.1998, c.41.

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

1. Section 2 of P.L.1998, c.41 (C.30:4D-17.17a) is amended to read as follows:

C.30:4D-17.17a Drug Utilization Review Board.

2. a. There is established the Drug Utilization Review Board in the department to advise the department on the implementation of a drug utilization review program pursuant to P.L.1993, c.16 (C.30:4D-17.16 et seq.) and this section. The board shall establish a Senior Drug Utilization Review Committee to address the specific prescribing needs of the elderly and an AIDS/HIV Drug Utilization Review Committee to address the specific prescribing needs of persons with AIDS/HIV, in addition to such other committees as it deems necessary. It shall be the responsibility of each committee to evaluate the specific prescribing needs of its beneficiary population, and to submit recommendations to the board in regard thereto.

The board shall consist of 17 members, including the Commissioners of Human Services and Health or their designees, who shall serve as nonvoting ex officio members, and 15 public members. The public members shall be appointed by the Governor with the advice and consent of the Senate. The appointments shall be made as follows: six persons licensed and actively engaged in the practice of medicine in this State, including one who is a psychiatrist and at least two who specialize in geriatric medicine and two who specialize in AIDS/HIV care, one of whom who is a pediatric AIDS/HIV specialist, four of whom shall be appointed upon the recommendation of the Medical Society of New Jersey and two upon the recommendation of the New

Jersey Association of Osteopathic Physicians and Surgeons; one person licensed as a physician in this State who is actively engaged in academic medicine; four persons licensed in and actively practicing or teaching pharmacy in this State, who shall be appointed from a list of pharmacists recommended by the New Jersey Pharmacists Association, the New Jersey Council of Chain Drug Stores, the Garden State Pharmacy Owners, Inc., the New Jersey Society of Hospital Pharmacists, the Academy of Consultant Pharmacists and the College of Pharmacy of Rutgers, The State University; one additional health care professional; two persons certified as advanced practice nurses in this State, who shall be appointed upon the recommendation of the New Jersey State Nurses Association; and one member to be appointed upon the recommendation of the Pharmaceutical Research and Manufacturers of America.

Each member of the board shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

At the time of appointment, each public member shall submit a written disclosure to the Department of Human Services and to the Office of the Attorney General detailing any financial interest or benefit furnished to the member by or through a pharmaceutical distributor, pharmaceutical manufacturer, or pharmacy benefits manager within the preceding three years, including, but not limited to, any meals, payments, gifts, stocks, or salary furnished to the member by the manufacturer and any stock or other investment interest held in a pharmaceutical distributor, pharmaceutical manufacturer, or pharmacy benefits manager by the member. Thereafter, each public member shall submit an updated disclosure on a quarterly basis for the duration of the member's term as a board member concerning any financial interest or benefit furnished to the member by or through a pharmaceutical distributor, pharmaceutical manufacturer, or pharmacy benefits manager and any investment interest in a pharmaceutical distributor, pharmaceutical manufacturer, or pharmacy benefits manager acquired or held by the member in the period following the date of the member's last written disclosure. An individual who fails to submit a written disclosure pursuant to this subsection shall be ineligible to serve as a board member and, if currently serving on the board, shall be immediately removed from the board. In addition, any individual who submits a written disclosure that is materially false, misleading, inaccurate, or incomplete shall be liable to a civil penalty of up to $20,000, which shall be collected and enforced by summary proceedings pursuant to the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Written disclosures submitted pursuant to this subsection shall be made available to

the public on the Internet websites of the Department of Human Services and the Office of the Attorney General.

b. All appointments to the board shall be made no later than the 60th day after the effective date of this act. The public members shall be appointed for two-year terms and shall serve until a successor is appointed and qualified, and are eligible for reappointment; except that of the public members first appointed, eight shall be appointed for a term of two years and five for a term of one year.

c. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made but for the unexpired term only. Members of the board shall serve with compensation for the time and expenses incurred in the performance of their duties as board members, as determined by the Commissioners of Human Services and Health, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

d. The board shall select a chairman from among the public members, who shall serve a one-year term, and a secretary. The chairman may serve consecutive terms. The board shall adopt bylaws. The board shall meet at least quarterly and may meet at other times at the call of the chairman. The board shall in all respects comply with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any action by the board shall be valid except upon the affirmative vote of a majority of the authorized membership of the board.

e. The duties of the board shall include the development and application of the criteria and standards to be used in retrospective and prospective drug utilization review. The criteria and standards shall be based on the compendia and developed with professional input in a consensus fashion. There shall be provisions for timely reassessments and revisions as necessary and provisions for input by persons acting as patient advocates. The drug utilization review standards shall reflect the local practices of prescribers, in order to monitor:

(1) therapeutic appropriateness;
(2) overutilization or underutilization;
(3) therapeutic duplication;
(4) drug-disease contraindications;
(5) drug-drug interactions;
(6) incorrect drug dosage;
(7) duration of drug treatment; and
(8) clinical drug abuse or misuse.

The board shall recommend to the department criteria for denials of claims and establish standards for a medical exception process. The board shall also consider relevant information provided by interested parties outside of the board and, if appropriate, shall make revisions to the criteria and standards in a timely manner based upon this information.

f. The board, with the approval of the department, shall be responsible for the development, selection, application, and assessment of interventions or remedial strategies for prescribers, pharmacists, and beneficiaries that are educational and not punitive in nature to improve the quality of care, including:

(1) Information disseminated to prescribers and pharmacists to ensure that they are aware of the duties and powers of the board;

(2) Written, oral, or electronic reminders of patient-specific or drug-specific information that are designed to ensure prescriber, pharmacist, and beneficiary confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care;

(3) The development of an educational program, using data provided through drug utilization review as a part of active and ongoing educational outreach activities to improve prescribing and dispensing practices as provided in this section. These educational outreach activities shall include accurate, balanced, and timely information about drugs and their effect on a patient. If the board contracts with another entity to provide this program, that entity shall publicly disclose any financial interest or benefit that accrues to it from the products selected or used in this program;

(4) Use of face-to-face discussion between experts in drug therapy and the prescriber or pharmacist who has been designated by the board for educational intervention;

(5) Intensified reviews or monitoring of selected prescribers or pharmacists;

(6) The timely evaluation of interventions to determine whether the interventions have improved the quality of care; and

(7) The review of case profiles prior to the conducting of an intervention.

2. The Commissioner of Human Services and the Attorney General may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) adopt rules and regulations as may be necessary to implement the provisions of this act.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 286

AN ACT concerning sports pool operators and wagering on sports, and amending P.L.1977, c.110 and P.L.2018, c.33.

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

1. Section 92 of P.L.1977, c.110 (C.5:12-92) is amended to read as follows:

C.5:12-92 Licensing of casino service industry enterprises.

92. Licensing of casino service industry enterprises. a. (1) Any business to be conducted with a casino applicant, racetrack, or licensee by a vendor offering goods or services which directly relate to casino, racetrack, sports wagering, or gaming activity, or Internet gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers, and independent testing laboratories, and companies that supply sports wagering equipment or services, shall require licensure as a casino service industry enterprise in accordance with the provisions of this act prior to conducting any business whatsoever with a casino applicant, racetrack, or licensee, its employees or agents; provided, however, that upon a showing of good cause by a casino applicant, racetrack, or licensee, the director may permit an applicant for a casino service industry enterprise license to conduct business transactions with such casino applicant, racetrack, or licensee prior to the licensure of that casino service industry enterprise applicant under this subsection for such periods as the division may establish by regulation. Companies providing services to casino licensees regarding Internet gaming shall, notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.), be responsible for the full cost of their licensure, including any investigative costs.

In the case of conducting an online sports pool, as that term is defined in section 1 of P.L.2018, c.33 (C.5:12A-10), a vendor that holds an existing casino service industry enterprise license shall, upon the approval of the division, expand on any initial license granted by the division prior to offering goods or services directly related to sports wagering or online sports wagering activities or operations. The approval shall be in accordance with the terms and conditions set forth by the division.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry enterprise intending to manufacture, sell,

distribute, test or repair slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be licensed in accordance with the provisions of this act prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee, the director may permit an applicant for a casino service industry enterprise license to conduct business transactions with the casino applicant or licensee prior to the licensure of that casino service industry enterprise applicant under this subsection for such periods as the division may establish by regulation; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry enterprise pursuant to this paragraph, the director may permit the casino service industry enterprise applicant to initiate the manufacture of slot machines or engage in the sale, distribution, testing or repair of slot machines with any person other than a casino applicant or licensee, its employees or agents, prior to the licensure of that casino service industry enterprise applicant under this subsection.

(3) Vendors providing goods and services to casino licensees or applicants ancillary to gaming, including, without limitation, junket enterprises and junket representatives, and any person employed by a junket enterprise or junket representative in a managerial or supervisory position, non-casino applicants or licensees required to hold a casino hotel alcoholic beverage license pursuant to section 103 of P.L.1977, c.110 (C.5:12-103), lessors of casino property not required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), and licensors of authorized games shall be required to be licensed as an ancillary casino service industry enterprise and shall comply with the standards set forth in paragraph (4) of subsection c. of this section.

b. Each casino service industry enterprise required to be licensed pursuant to paragraph (1) of subsection a. of this section, as well as its owners; management and supervisory personnel; and employees if such employees have responsibility for services to a casino applicant or licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this act, P.L.1977, c.110 (C.5:12-1 et seq.).

c. (1) Any vendor that offers goods or services to a casino applicant or licensee that is not included in subsection a. of this section including, but not limited to casino site contractors and subcontractors, shopkeepers located within the approved hotels, gaming schools that possess slot machines for the purpose of instruction, and any non-supervisory employee of a junket enterprise licensed under paragraph (3) of subsection a. of this section, shall

be required to register with the division in accordance with the regulations promulgated under this act, P.L.1977, c.110 (C.5:12-1 et seq.).

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the director may, consistent with the public interest and the policies of this act, direct that individual vendors registered pursuant to paragraph (1) of this subsection be required to apply for either a casino service industry enterprise license pursuant to paragraph (1) of subsection a. of this section, or an ancillary casino service industry enterprise license pursuant to paragraph (3) of subsection a. of this section, as directed by the division, including, without limitation, in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192); shopkeepers located within the approved hotels; and gaming schools that possess slot machines for the purpose of instruction. The director may also order that any enterprise licensed as or required to be licensed as an ancillary casino service industry enterprise pursuant to paragraph (3) of subsection a. of this section be required to apply for a casino service industry enterprise license pursuant to paragraph (1) of subsection a. of this section. The director may also, in his discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to subsection c. of this section or be licensed pursuant to either paragraph (1) or (3) of subsection a. of this section.

(3) (Deleted by amendment, P.L.2011, c.19)

(4) Each ancillary casino service industry enterprise required to be licensed pursuant to paragraph (3) of subsection a. of this section, as well as its owners, management and supervisory personnel, and employees if such employees have responsibility for services to a casino applicant or licensee, shall establish their good character, honesty and integrity by clear and convincing evidence and shall provide such financial information as may be required by the division. Any enterprise required to be licensed as an ancillary casino service industry enterprise pursuant to this section shall be permitted to transact business with a casino licensee upon filing of the appropriate vendor registration form and application for such licensure.

d. Any applicant, licensee or qualifier of a casino service industry enterprise license or of an ancillary casino service industry enterprise license under subsection a. of this section, and any vendor registrant under subsection c. of this section shall be disqualified in accordance with the criteria contained in section 86 of P.L.1977, c.110 (C.5:12-86), except that no such ancillary casino service industry enterprise license under paragraph (3) of subsection a. of this section or vendor registration under subsection c. of this section shall be denied or revoked if such vendor registrant can

affirmatively demonstrate rehabilitation as provided in subsection d. of section 91 of P.L.1977, c.110 (C.5:12-91).

e. No casino service industry enterprise license or ancillary casino service industry enterprise license shall be issued pursuant to subsection a. of this section to any person unless that person shall provide proof of valid business registration with the Division of Revenue in the Department of the Treasury.

f. (Deleted by amendment, P.L.2011, c.19)

g. For the purposes of this section, each applicant shall submit to the division the name, address, fingerprints and a written consent for a criminal history record background check to be performed, for each person required to qualify as part of the application. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the division in the event a current or prospective qualifier, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

h. (1) Subsequent to the licensure of any entity pursuant to subsection a. of this section, including any finding of qualification as may be required as a condition of licensure, or the registration of any vendor pursuant to subsection c. of this section, the director may revoke, suspend, limit, or otherwise restrict the license, registration or qualification status upon a finding that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section 86 of P.L.1977, c.110 (C.5:12-86).

(2) A hearing prior to the suspension of any license, registration or qualification issued pursuant to this section shall be a limited proceeding at which the division shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section 86 of P.L.1977, c.110 (C.5:12-86).

2. Section 1 of P.L.2018, c.33 (C.5:12A-10) is amended to read as follows:

C.5:12A-10 Definitions relative to sports wagering.

1. As used in this act:

"Casino" means a licensed casino or gambling house located in Atlantic City at which casino gambling is conducted pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.).

"Commission" means the Casino Control Commission established pursuant to section 50 of P.L.1977, c.110 (C.5:12-50).

"Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level.

"Division" means the Division of Gaming Enforcement established pursuant to section 55 of P.L.1977, c.110 (C.5:12-55).

"Former racetrack" means any former racetrack where a horse race meeting was conducted within 15 years prior to the effective date of P.L.2014, c.62 (C.5:12A-7 et seq.), excluding premises other than the land contained within the racecourse oval.

"Internet sports pool operator" means an entity that is licensed as a casino service industry enterprise pursuant to section 92 of P.L.1977, c.110 (C.5:12-92).

"Online sports pool" means a sports wagering operation in which wagers on sports events are made through computers or mobile or interactive devices and accepted at a sports wagering lounge through an online gaming system which is operating pursuant to a sports wagering license issued by the division or racing commission pursuant to P.L.2018, c.33 (C.5:12A-10 et al.).

"Operator" means a casino or a racetrack which has elected to operate a sports pool, either independently or jointly, and any entity with whom a casino or racetrack licensed to operate a sports pool contracts to operate a sports pool or online sports pool, including an Internet sports pool operator, on its behalf.

"Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event.

"Prohibited sports event" means any collegiate sport or athletic event that takes place in New Jersey or a sport or athletic event in which any New Jersey college team participates regardless of where the event takes place. A "prohibited sports event" does not include the other games of a collegiate sport or athletic tournament in which a New Jersey college team participates, nor does it include any games of a collegiate tournament that occurs outside New Jersey even though some of the individual games or events are held in New Jersey. A "prohibited sports event" includes all high school sports events. A "prohibited sports event" includes electronic sports and competitive video games that are sponsored by or affiliated with a high school or electronic sports and competitive video games and tournaments in which a majority of

the competitors are under 18 years of age. A "prohibited sports event" does not include sports, electronic sports, or competitive video game events in which persons under age 18 make up a minority of the participants.

"Racetrack" means the physical facility and the land, as of the effective date of P.L.2018, c.33 (C.5:12A-10 et al.), where a permit holder conducts a horse race meeting with wagering under a license issued by the racing commission pursuant to P.L.1940, c.17 (C.5:5-22 et seq.), and includes any former racetrack.

"Racing Commission" means the New Jersey Racing Commission established by section 1 of P.L.1940, c.17 (C.5:5-22).

"Sports event" means any professional sport or athletic event, any Olympic or international sports competition event and any collegiate sport or athletic event, or any portion thereof, including, but not limited to, the individual performance statistics of athletes in a sports event or combination of sports events, except "sports event" shall not include a prohibited sports event or a fantasy sports activity, as defined in section 2 of P.L.2017, c.231 (C.5:20-2). A "sports event" shall include any live competition or talent contest, including awards competitions and competitive eating contests.

"Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering, including but not limited to single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

"Sports wagering lounge" means an area wherein a licensed sports pool is operated located in a casino hotel or racetrack.

3. Section 2 of P.L.2018, c.33 (C.5:12A-11) is amended to read as follows:

C.5:12A-11 Issuance, renewal of sports wagering licenses.

2. a. The division shall issue all sports wagering licenses and renewals thereof to casinos. The racing commission shall issue all initial sports wagering licenses to racetracks but the division shall have responsibility for the renewal thereof. In addition to casino games permitted pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.), a casino which holds a sports wagering license issued by the division may operate a sports pool in accordance with the provisions of this act and applicable regulations promulgated pursuant to this act. A racetrack which holds an initial sports wagering license issued by the racing commission or a sports wagering license that has been renewed by the division may operate a sports pool in accordance with the provisions of this act and applicable regulations promulgated pursuant to this act.

The division may issue a transactional waiver to allow the continued operation of an established sports wagering lounge and authorization to conduct up to three online sports wagering operations when a racetrack that holds a license issued by the racing commission pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) undergoes a material change in ownership to a degree such that it would be required to file a new application with the racing commission in order to continue to operate pursuant to P.L.1940, c.17 (C.5:5-22 et seq.). A transactional waiver issued pursuant to this section shall be for an initial period of up to six months and may be renewed during the pendency of the racing commission's consideration of a new application for up to three one-year periods, but the division shall have the right to reexamine and rescind the grant of the waiver at any time.

A casino which holds a sports wagering license and a racetrack which holds a sports wagering license may enter into an agreement to jointly operate a sports pool at the racetrack, in accordance with the provisions of this act and applicable regulations promulgated pursuant to this act. A casino or racetrack that holds a sports wagering license may conduct an online sports pool or may authorize an internet sports pool operator licensed as a casino service industry enterprise pursuant to section 92 of P.L.1977, c.110 (C.5:12-92), or an applicant for such license, to operate an online sports pool on its behalf provided the terms of the agreement are approved by the division; provided, however, that each sports wagering licensee may provide no more than three individually branded websites, each of which may have an accompanying mobile application bearing the same brand as the website for an online sports pool, those websites and mobile applications, in the case of a casino being in addition to or, in the discretion of the casino, in conjunction with, any websites and mobile applications that also offer other types of Internet gaming pursuant to P.L.2013, c.27 (C.5:12-95.17 et seq.). No online sports pool shall be opened to the public, and no sports wagering, except for test purposes, may be conducted therein, until an Internet sports pool operator receives approval from the division to conduct an online sports pool on behalf of a casino or racetrack that holds a sports wagering license. Sports wagering licensees and operators may provide promotional credits, incentives, bonuses, complimentaries, or similar benefits designed to induce sports betters to wager. The division, in consultation with the commission, shall establish by rule standards governing the provision of these measures. The server or other equipment used by a racetrack to accept wagers at a sports pool or online sports pool shall be located in that racetrack or in any location in Atlantic City which conforms to the requirements of section 20 of P.L.2013, c.27 (C.5:12-95.22) and any additional requirements which the

division may impose by regulation. The server or other equipment used by a casino to accept wagers at a sports pool or online sports pool shall conform to the requirements of section 20 of P.L.2013, c.27 (C.5:12-95.22) and any additional requirements which the division may impose by regulation.

With regard to this act, P.L.2018, c.33 (C.5:12A-10 et al.), the duties specified in section 63 of P.L.1977, c.110 (C.5:12-63) of the Casino Control Commission shall apply to the extent not inconsistent with the provisions of this act. In addition to the duties specified in section 76 of P.L.1977, c.110 (C.5:12-76), the division or racing commission, as required pursuant to this act, shall hear and decide promptly and in reasonable order all applications for a license to operate a sports pool. In addition to the duties specified in section 76 of P.L.1977, c.110 (C.5:12-76), the division shall have the general responsibility for the implementation of this act, except with respect to the authority to issue sports wagering licenses to a racetrack as provided by this act, and shall have all other duties specified in that section with regard to the operation of a sports pool.

The license to operate a sports pool shall be in addition to any other license required to be issued pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) to operate a casino or pursuant to P.L.1940, c. 17 (C.5:5-22 et seq.) to conduct horse racing. The division and the racing commission shall each have the authority to charge a casino or a racetrack a fee for the issuance or, in the case of the division renewal, of a sports wagering license in an amount of $100,000 for initial issuance and in the case of a renewal a reasonable fee that is based upon the expense associated with renewal, enforcement, and gambling addiction programs. No sports wagering license shall be issued by the division or racing commission to any entity unless it has established its financial stability, integrity and responsibility and its good character, honesty and integrity. No casino or racetrack shall be permitted to operate a sports pool or accept wagers via an online sports pool unless a sports wagering lounge is established and has commenced operation in its facility; provided, however, that an applicant for a sports wagering license may petition the agency issuing the sports wagering license pursuant to this act to commence operation of the sports pool at a temporary facility and/or an online sports pool during the pendency of construction of a sports wagering lounge in its facility. Such temporary facility may include, at the discretion of the agency issuing the sports wagering license pursuant to this act, the utilization of designated windows at the current casino cage or racetrack betting window for purposes of placing sports betting wagers and self-service wagering machines located at the racetrack or casino hotel complex. No license to operate a sports pool shall be issued to any entity which is disqualified under the criteria of section 86 of P.L.1977, c.110 (C.5:12-86).

No later than five years after the date of the issuance of a license and every five years thereafter or within such lesser periods as the agency issuing the sports wagering license pursuant to this act may direct, a licensee shall submit to the said agency such documentation or information as the division or racing commission may by regulation require, to demonstrate to the satisfaction of the agency that the licensee continues to meet the requirements of the law and regulations.

The division and the racing commission following consultation with the sports wagering licensees shall annually cause a report to be prepared and distributed to the Governor on the impact of sports wagering, including Internet wagering on sports events, on problem gamblers and gambling addiction in New Jersey. The report shall be prepared by a private organization or entity with expertise in serving the needs of persons with gambling addictions, which organization or entity shall be selected jointly by the division and the racing commission. The report shall be prepared and distributed under the supervision of, and in coordination with, the division and the racing commission. Any costs associated with the preparation and distribution of the report shall be borne by casino and racetrack licensees who have been authorized by the division or the racing commission to conduct Internet gaming and the division and the racing commission shall be authorized to assess a fee against such licensees for these purposes. The division and the racing commission may also report periodically to the Governor on the effectiveness of the statutory and regulatory controls in place to ensure the integrity of gaming operations through the Internet.

b. A sports pool shall be operated in a sports wagering lounge located at a casino or racetrack. A sports wagering lounge may be located at a casino simulcasting facility. The lounge shall conform to all requirements concerning square footage, design, equipment, security measures and related matters which the division shall by regulation prescribe. The space required for the establishment of a lounge shall not reduce the space authorized for casino gaming activities as specified in section 83 of P.L.1977, c.110 (C.5:12-83).

c. No sports pool or online sports pool shall be offered or made available for wagering to the public by any entity other than a sports wagering licensee, pursuant to P.L.2018, c.33 (C.5:12A-10 et al.), an applicant for such license, operating such pool on behalf of a licensee, or an Internet sports pool operator, on behalf of a sports wagering licensee. Any person who offers a sports pool or an online sports pool without approval of the division or racing commission to do so is guilty of a crime of the fourth degree and notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than $25,000 and in the case of a person other than a natural person, to a fine of

not more than $100,000 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

d. The operator shall establish or display the odds at which wagers may be placed on sports events.

e. An operator shall accept wagers on sports events only from persons physically present in the sports wagering lounge; through self-service wagering machines located in its facility as authorized by the agency issuing the sports wagering license; or through an online sports pool. A person placing a wager on a sports event shall be at least 21 years of age.

f. (1) Any person who is:

an athlete, coach, referee, or director of a sports governing body or any of its member teams;

a sports governing body or any of its member teams;

a player or a referee personnel member, in or on any sports event overseen by that person's sports governing body based on publicly available information;

a person who holds a position of authority or influence sufficient to exert influence over the participants in a sporting contest, including but not limited to coaches, managers, handlers, athletic trainers, or horse trainers;

a person with access to certain types of exclusive information on any sports event overseen by that person's sports governing body based on publicly available information; or

a person identified by any lists provided by the sports governing body to the division and the racing commission,

shall not be permitted to have any ownership interest in, control of, or otherwise be employed by an operator, a sports wagering licensee, or a facility in which a sports wagering lounge is located or place a wager on a sports event that is overseen by that person's sports governing body based on publicly available information.

Any employee of a sports governing body or its member teams who is not prohibited from wagering on a sports event shall, nevertheless, provide notice to the division prior to placing a wager on a sports event. The direct or indirect legal or beneficial owner of 10 percent or more of a sports governing body shall not place or accept any wager on a sports event in which any member team of that sports governing body participates. The direct or indirect legal or beneficial owner of 10 percent or more of a member team of a sports governing body shall not place or accept any wager on a sports event in which that member team participates. Any person who violates this paragraph shall be guilty of a disorderly persons offense and shall be fined not less than $500 and not more than $1,000.

(2) The prohibition set forth in paragraph (1) of this subsection shall not apply to any person who is a direct or indirect owner of a specific sports governing body member team and (i) has less than 10 percent direct or indirect ownership interest in a casino or racetrack or (ii) the shares of such person are registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. s.78I), and the value of the ownership of such team represents less than one percent of the person's total enterprise value.

(3) An operator shall adopt procedures to prevent persons from wagering on sports events who are prohibited from placing sports wagers. An operator shall not accept wagers from any person whose identity is known to the operator and:

whose name appears on the exclusion list maintained by the division pursuant to section 71 of P.L.1977, c.110 (C.5:12-71);

whose name appears on any self-exclusion list maintained by the division pursuant to sections 1 and 2 of P.L.2001, c.39 (C.5:12-71.2 and C.5:12-71.3, respectively);

who is the operator, director, officer, owner, or employee of the operator or any relative thereof living in the same household as the operator;

who has access to nonpublic confidential information held by the operator; or

who is an agent or proxy for any other person.

(4) An operator shall adopt procedures to obtain personally identifiable information from any individual who places any single wager in an amount of $10,000 or greater on a sports event while physically present in a racetrack facility or a casino.

Sections 1 and 2 of P.L.2002, c.89 (C.5:5-65.1 and C.5:5-65.2, respectively) shall apply to the conduct of sports wagering under this act.

g. The holder of a sports wagering license may contract with an entity to conduct that operation, in accordance with the regulations of and approval by the division. That entity shall obtain a license as a casino service industry enterprise prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and in accordance with the regulations promulgated by the division in consultation with the commission. That entity shall, upon approval of the division, expand on any initial license granted by the division prior to entering into any such contract. The approval shall be in accordance with the terms and conditions set forth by the division.

h. If any provision of this act, P.L.2018, c.33 (C.5:12A-10 et al.), or its application to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given

effect without the invalid provision or application, and to this end the provisions of this act are severable.

i. An operator shall promptly report to the division:

any criminal or disciplinary proceedings commenced against the operator or its employees in connection with the operations of the sports pool or online sports pool;

any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;

any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including but not limited to match fixing; and

suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification.

The division is authorized to share any information under this section with any law enforcement entity, team, sports governing body, or regulatory agency the division deems appropriate.

j. An operator shall maintain records of sports wagering operations in accordance with regulations promulgated by the division.

k. A sports wagering licensee may, in addition to having a sports wagering lounge, conduct wagering on authorized sports events through one or more kiosks or self-service wagering stations located within its facility. Such self-service wagering stations located at a casino may offer any game authorized under rules established by the division. Such self-service wagering stations located at a racetrack may offer wagering only on authorized sports events and horse races.

l. All wagers on sports events authorized under this provision shall be initiated, received and otherwise made within this State unless otherwise determined by the division in accordance with applicable federal and State laws. Consistent with the intent of the United States Congress as articulated in the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. s.5361 et seq.), the intermediate routing of electronic data relating to a lawful intrastate wager authorized under this provision shall not determine the location or locations in which such wager is initiated, received or otherwise made.

m. A sports wagering licensee shall not accept any wager on any sports event unless the sports event has been approved for wagering by the director. Except as otherwise provided in this subsection, no sports event shall be approved for wagering unless the director has certified that the sports event has appropriate policies and procedures to monitor the integrity of the athletes or competitors. In the absence of such certification, the director shall

impose a wager limit of not more than $100 or a win limit of $500, whichever is greater, on the amount permitted to be wagered or won on such competitions or contests by any individual.

4. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 287

AN ACT prohibiting municipal licensure of children operating temporary businesses and supplementing chapter 52 of Title 40 of the Revised Statutes.

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

C.40:52-19 No license or permit required for an occasionally operated business by individual under 18 years of age.

1. A municipality shall not require a license or permit for a business that is operated only occasionally and by an individual who is under 18 years of age.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 288

AN ACT establishing a commission to study beneficial relationships between institutions of higher education and municipalities.

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

1. a. There is established a study commission for the purpose of examining the development of mutually beneficial relationships between institutions of higher education and the municipalities in which the institutions are located. The commission shall consist of 17members as follows:

(1) the Secretary of Higher Education, or a designee and the Director of the Division of Local Government Services in the Department of Community Affairs, or a designee;

(2) 11 members appointed by the Governor, including a representative of the State colleges and universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, a representative of the public research universities, a representative of the county colleges, a representative of the independent colleges and universities, a mayor or designee of a municipality in which a State college or university is located, a mayor or designee of a municipality in which a public research university is located, a mayor or designee of a municipality in which a county college is located, a mayor or designee of a municipality in which an independent college or university is located, a representative of the New Jersey State League of Municipalities, a representative of the American Federation of Teachers, and a representative of the New Jersey Education Association; and

(3) four members of the public with demonstrated expertise or interest in issues related to the work of the commission. The President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, and the Minority Leader of the General Assembly shall each appoint one of the public members.

b. Appointments to the commission shall be made within 30 days of the effective date of this act. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

c. Members of the commission shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties within the limits of funds made available to the commission for its purposes.

2. a. The commission shall organize as soon as practicable, but no later than 30 days following the appointment of its members. The commission shall choose a chairperson from among its members and shall appoint a secretary who need not be a member of the commission.

b. The Office of the Secretary of Higher Education shall provide such professional staff and related support services as the commission requires to carry out its work. The commission also shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes.

3. It shall be the duty of the study commission to examine the creation and implementation of mutually beneficial relationships between the State's institutions of higher education and the municipalities in which the institutions are located. The commission shall study and consider issues including, but not limited to, the following:

a. ways in which institutions of higher education and municipalities may work closely together to foster relationships that will benefit the institution, the institution's students, and the community;

b. ways to increase the engagement of institutions of higher education with their surrounding communities in order to address and respond to community needs;

c. specific types of structured partnerships that may mutually benefit institutions of higher education and their surrounding communities including, but not limited to, partnerships related to academic programs, research, student internship and work opportunities, and community service and outreach;

d. the process by which an institution of higher education may acquire additional land, including whether the municipality should be required to approve the procurement of new land; and

e. recommendations or best practices for institutions of higher education and municipalities regarding the creation and implementation of mutually beneficial relationships and partnerships.

4. The commission shall issue a report of its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than 12 months after the commission organizes.

5. This act shall take effect 90 days after the date of enactment, and the commission shall expire 30 days after the submission of its report.

Approved November 8, 2021.

CHAPTER 289

AN ACT concerning funds for the New Jersey Community College Consortium for Workforce and Economic Development and amending P.L.2001, c.152.

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

1. Section 1 of P.L.2001, c.152 (C.34:15D-21) is amended to read as follows:

C.34:15D-21 "Supplemental Workforce Fund for Basic Skills."

1. a. A restricted, nonlapsing, revolving "Supplemental Workforce Fund for Basic Skills," to be managed and invested by the State Treasurer, is hereby established in the Department of Labor and Workforce Development to provide basic skills training. All moneys appropriated to the fund, all interest accumulated on balances in the fund and all cash received for the fund from any other source shall be allocated by the Commissioner of Labor and Workforce Development as follows:

(1) 24% shall be deposited in an account reserved to support basic skills training delivered by the State's One Stop Career Centers to qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7);

(2) 28% shall be deposited in an account reserved for Workforce Investment Boards to provide grants for basic skills training for qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) and for other individuals with learning disabilities or otherwise in need of vocational rehabilitation services;

(3) 25% shall be deposited in an account reserved for grants to consortia including one or more of any of the following: eligible individual employers, employer organizations, labor organizations, community-based organizations or educational institutions to provide basic skills training to qualified displaced, disadvantaged or employed workers or to other individuals seeking to enter apprenticeship training; except that, during the fiscal year beginning after June 30, 2019, 12.5% shall be deposited in an account reserved for grants to consortia including one or more of any of the following: eligible individual employers, employer organizations, labor organizations, community-based organizations or educational institutions to provide basic skills training to qualified displaced, disadvantaged or employed workers or to other individuals seeking to enter apprenticeship training, and 12.5% shall be deposited in an account reserved to provide grants under the High-Growth Industry Regional Apprenticeship Development Grant Pilot Program, established pursuant to section 1 of P.L.2019, c.314 (C.34:15D-32) through fiscal year 2024;

(4) 13%, but not less than $3 million, shall be deposited in an account reserved for a grant to the New Jersey Community College Consortium for Workforce and Economic Development, a part of the New Jersey Council of County Colleges, to provide basic skills training to qualified displaced, disadvantaged or employed workers. If the 13% is less than $3 million, an additional amount shall be deposited into this account either from the 87% deposited pursuant to paragraphs (1), (2), (3), and (5) of this subsection or from other funds as determined by the commissioner until this account equals $3 million; and

(5) 10% shall be deposited in an account to be used, at the discretion of the commissioner, for any of the purposes indicated in this subsection a. and any administrative costs incurred by the Department of Labor and Workforce Development in connection with the fund.

b. Any grant provided in connection with paragraph (3) of subsection a. of this section directly to an employer or to an employer through a consortium shall be regarded as a customized training grant and shall be administered by the Office of Customized Training and the employer and consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that any grants provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities or preparation for entry into apprenticeship training shall be exempt from the requirement of this subsection b. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), if it is approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3), and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Any grant provided in connection with paragraph (2) of subsection a. of this section directly to an individual shall be regarded as an individual training grant and shall be subject to the requirements of subsections a., c. and d. of section 6 of P.L.1992, c.43 (C.34:15D-6).

Also, any funds provided in connection with paragraph (4) of subsection a. of this section shall be provided to the New Jersey Community College Consortium for Workforce and Economic Development by the Office of Customized Training, and shall comply with the following requirements:

(1) The New Jersey Community College Consortium for Workforce and Economic Development shall work with all the community colleges throughout the State of New Jersey to deliver basic skills training in the most effective and efficient manner possible at any of their 63 campuses or at any appropriate business facility;

(2) There shall be no charge to the employer sending employees to the training, but the employer shall pay employees regular wages for the hours the training takes place, except that any waiver of this requirement to pay employees regular wages, for the hours of training, authorized by the Commissioner of Labor and Workforce Development, may, at the discretion of the commissioner, be offered to the New Jersey Community College Consortium for Workforce and Economic Development on the same basis as any other grant recipient;

(3) The employers sending their employees to this training shall not be asked to provide any paperwork or complete any financial disclosure forms, including a tax clearance certificate as provided in section 1 of P.L.2007, c.101 (C.54:50-39), except that employers shall provide the employees participating in the training with the information that the employees need to comply with paragraph (4) of this subsection, and shall provide the New Jersey Community College Consortium for Workforce and Economic Development with the information the employer has regarding its participating employees that the consortium needs to produce the annual report required pursuant to paragraph (7) of this subsection;

(4) The employees being trained shall provide the Federal Employer Identification Number (FEIN) of their employer and the employer's contact information at the beginning of the training;

(5) The mean class size for training under this subsection shall be 10, but the New Jersey Community College Consortium for Workforce and Economic Development may aggregate employees from multiple employers in a single training to reach that mean of 10;

(6) The training provided under this subsection shall be basic skills training, but the apportionment of classes in the different areas of basic skills as defined by subsection h. of this section may be determined by the New Jersey Community College Consortium for Workforce and Economic Development in consultation with representatives of the business community;

(7) The New Jersey Community College Consortium for Workforce and Economic Development shall file an annual report by September 1 of each year with the New Jersey Legislature and the New Jersey Department of Labor and Workforce Development containing the total number of workers trained, the total funds expended on training, the number of workers trained in each area of basic skills training, the number of businesses with employees trained, the number of classes held in each area of basic skills training, the number of classes held at each community college, the wage ranges of the workers trained, the job titles of the workers trained and the results of the pre-training and post-training assessments. The report shall also include an analysis of the

strengths and weaknesses of the training program and how it can be improved in the following year. The report shall supplant all requirements for any other reporting that the New Jersey Community College Consortium for Workforce and Economic Development may be asked to complete with respect to the funds it receives through paragraph (4) of subsection a. of this section; and

(8) The New Jersey Community College Consortium for Workforce and Economic Development shall work with the business community to promote this program to businesses across the State, including chambers of commerce and Statewide associations, such as the New Jersey Business and Industry Association, and shall seek out, and work with, State, regional, and county organizations that are dedicated to the economic empowerment of segments of society by race, ethnicity, gender, age, religion, disability, or sexual orientation, including, but not limited to the African American Chamber of Commerce of New Jersey and the Statewide Hispanic Chamber of Commerce of New Jersey, and any other appropriate business organizations.

c. Any employment and training services funded by the Supplemental Workforce Fund for Basic Skills shall be provided in a manner which complies with the provisions of subsections b., c., f., g., h. and i. of section 4 of P.L.1992, c.43 (C.34:15D-4), to the extent that those subsections pertain to remedial education. Any service provider receiving moneys from the Supplemental Workforce Fund for Basic Skills shall be subject to the provisions of section 8 of P.L.1992, c.43 (C.34:15D-8) and section 8 of P.L.1992, c.44 (C.34:15D-19).

d. All staff located at any One Stop Career Center supported by funds provided from the Supplemental Workforce Fund for Basic Skills shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes.

e. Beginning July 1, 2002, and for any subsequent fiscal year, if the unexpended cash balance in any of the accounts indicated in subsection a. of this section, less any amount awarded in grants but not yet disbursed from the account, is determined to exceed 20% of the amount of contributions collected for deposit in the account pursuant to this subsection during the fiscal year then ended, the excess shall be regarded as an unemployment compensation contribution and deposited into the unemployment compensation fund within seven business days of the date that the determination is made.

f. The Commissioner of Labor and Workforce Development shall establish standards of performance for providers of basic skills training pursuant to this act. The standards shall include, but not be limited to, standards for the curriculum or training to be furnished, qualifications for

persons who will provide the training under the act, and standards for establishing what constitutes successful completion of the training program. The commissioner shall establish means of determining the ability of enrollees to gain or maintain employment following the successful completion of a training program established pursuant to this section. In the event that the commissioner determines that a provider has not conducted its training program in accordance with the standards of performance, he may take that action necessary to correct the deficiencies of the provider, or terminate the contract with the provider of basic skills services if the provider fails to respond to remedial action.

g. The State Employment and Training Commission shall review and evaluate the operations of programs supported by the Supplemental Workforce Fund for Basic Skills established pursuant to this section, with special consideration to how those programs assist in the implementation of the goals of the Strategic Five-Year State Plan for New Jersey's Workforce Investment System, and shall consult with the Commissioner of Labor and Workforce Development regarding its findings.

h. For the purpose of this section:

"Basic skills training" means basic mathematics, reading comprehension, basic computer literacy including new technology topics, English proficiency and work-readiness skills including topics for entry level managers and shall be regarded as a form of "remedial education" for the purposes of section 3 of P.L.1992, c.43 (C.34:15D-3);

"One Stop Career Center" means one of the centers established in local areas to coordinate a variety of State and local programs providing employment and training services, including job placement services, or any other similar State or local government-sponsored center providing employment and training services as may be developed at any later time; and

"Qualified disadvantaged worker," "qualified displaced worker," "qualified employed worker," and "employment and training services" have the meanings given to them by section 3 of P.L.1992, c.43 (C.34:15D-3).

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 290

AN ACT concerning solar energy generation on warehouses and supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).

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

C.52:27D-123.19 Solar-ready building, warehouses.

1. a. Any newly constructed warehouse for which an application for a construction permit has not been declared complete by the enforcing agency before July 1, 2022, shall be a solar-ready building.

b. The Department of Community Affairs shall adopt, pursuant to section 5 of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-123) and the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing standards for the design and construction of solar-ready buildings. The rules and regulations shall incorporate the provisions of the 2018 International Energy Conservation Code, Appendix CA, and any successor model code, concerning solar-ready zones.

c. For the purposes of this section:

"Solar-ready building" means a building that includes a solar-ready zone.

"Solar-ready zone" means a section of a roof or building overhang designated and reserved for the future installation of a solar photovoltaic or solar thermal system, which is at less 40 percent of the roof area calculated as the horizontally projected areas minus the area covered by skylights, occupied roof decks, vegetative roof areas, and mandatory access or set back areas required by the State Uniform Construction Code, or as otherwise provided in the 2018 International Energy Conservation Code, Appendix CA, and any successor model code, concerning solar-ready zones.

"Warehouse" means any building, room, structure, or facility of at least 100,000 square feet used primarily for the storage of goods intended for sale.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 291

AN ACT concerning waterfowl stamps, and amending and supplementing P.L.1983, c.504.

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

1. Section 3 of P.L.1983, c.504 (C.23:3-77) is amended to read as follows:

C.23:3-77 Procurement; fee for New Jersey Waterfowl Stamp

3. The New Jersey Waterfowl Stamp shall be procured from the Division of Fish and Wildlife, or from other designated agents deemed qualified by the Division of Fish and Wildlife, unless modified pursuant to section 2 of this act. The annual fee for the New Jersey Waterfowl Stamp shall be $15 for persons without a valid New Jersey resident's firearm hunting or bow and arrow license, and $10 for persons possessing a valid New Jersey resident's firearm hunting or bow and arrow license. A New Jersey Waterfowl Stamp shall not be valid unless it is in the possession of the licensee and contains the signature of the licensee written in ink across the face of the stamp. All New Jersey Waterfowl Stamps shall expire on June 30 of each year, unless otherwise prescribed in the State Fish and Game Code.

Any person may procure the $10 and $15 New Jersey Waterfowl Stamps at their face value for collection purposes only.

C.23:3-77.1 Annual fee adjustment.

2. The Fish and Game Council may, on one occasion only at such time as may be deemed appropriate by the Fish and Game Council, with the consent of the New Jersey Migratory Waterfowl Advisory Committee, by regulation adopted by August 1 of the preceding year, adjust the annual fees for the New Jersey Waterfowl Stamp established pursuant to section 3 of P.L.1983, c.504 (C.23:3-77), in an amount not to exceed $5.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 292

AN ACT concerning the development of a public emergency response plan for providers of services to individuals with developmental disabilities and supplementing Title 30 of the Revised Statutes.

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

C.30:6D-27.4 Definitions relative to public emergency response plans.

1. a. As used in this section:

"Client" means an individual with a developmental disability who receives services from the department or any licensed service provider.

"Department" means the Department of Human Services.

"Licensed service provider" means a person or entity that is licensed, certified, or otherwise authorized by the department to provide services to individuals with developmental disabilities in the State.

"Public emergency" means an environmental, public health, or public safety emergency that is occurring in New Jersey or in one or more counties, regions, or other parts of the State, and which is officially recognized and declared as an emergency by the Governor of New Jersey or by the President of the United States.

b. The Department of Human Services, in consultation with the Department of Health, the Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families, licensed service providers, and the State Office of Emergency Management in the Department of Law and Public Safety, shall develop and oversee the implementation of a public emergency response plan for licensed service providers in the State. At a minimum, the public emergency response plan shall:

(1) establish guidelines and best practices for the general and specific operations, activities, and procedures that are to be undertaken or implemented by licensed service providers during a public emergency;

(2) to the extent feasible, identify the means, methods, and channels through which licensed service providers may obtain personal protective equipment (PPE) and other equipment or services that are critical to the maintenance of ongoing operations during the course of a public emergency;

(3) address various possible public emergency scenarios and provide for the application of differing standards and best practices under paragraph (1) of this subsection and the use of differing sourcing methods pursuant to paragraph (2) of this subsection for different types of public emergency, as appropriate, while highlighting the standards, best practices, and resource sourcing methods that are applicable for the purposes of any currently declared public emergency; and

(4) be consistent with, and incorporate, any relevant guidance that is published by the U.S. Department of Health and Human Services, the federal

Centers for Disease Control and Prevention, and any other federal agencies that are involved in the remediation of public emergencies.

c. The department shall:

(1) prepare a public emergency response plan, as required by this section, within 60 days after the enactment of this act;

(2) review and revise the plan: (a) on at least a biennial basis after the plan's initial preparation under paragraph (1) of this subsection; and (b) as soon as is possible following the declaration of any new public emergency in the State; and

(3) post, at a publicly accessible location on the department's Internet website, the initial response plan developed under paragraph (1) of this subsection and any revised response plan developed under paragraph (2) of this subsection.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 293

AN ACT concerning certain municipal court procedures, and amending P.L.2000, c.75.

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

1. Section 2 of P.L.2000, c.75 (C.2B:25-11) is amended to read as follows:

C.2B:25-11 Acceptance of plea to lesser offense.

2. a. In accordance with the Rules of Court adopted by the Supreme Court of New Jersey or procedures promulgated by the Administrative Office of the Courts, a municipal prosecutor may recommend to the court to accept a plea to a lesser or other offense.

b. (1) The Administrative Office of the Courts has developed and shall administer a Municipal Case Resolution Program that would allow a defendant charged with a matter falling within the jurisdiction of the municipal court to engage in online:

(a) plea negotiations with a municipal prosecutor;

(b) entry of a guilty plea; and

(c) payment of a fine or penalty.

(2) A municipal prosecutor shall use the Municipal Case Resolution Program developed by the Administrative Office of the Courts.

c. Nothing in this section shall be construed to alter or limit the authority or discretion of the Supreme Court to regulate the practice of plea agreements in municipal court, or to alter or limit the authority or discretion of a prosecutor.

2. This act shall take effect on the first day of the third month next following the date of enactment.

Approved November 8, 2021.

CHAPTER 294

AN ACT concerning long-term care and amending P.L.1977, c.239.

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

1. Section 5 of P.L.1977, c.239 (C.52:27G-5) is amended to read as follows:

C.52:27G-5 Duties and powers.

5. The ombudsman, as administrator and chief executive officer of the office, shall:

a. Administer and organize the work of the office and establish therein such administrative subdivisions as necessary, proper, and expedient. He or she may formulate and adopt rules and regulations and prescribe duties for the efficient conduct of the business, work, and general administration of the office. He or she may delegate to subordinate officers or employees in the office such power as may be desirable to be exercised under his or her supervision and control;

b. Appoint and remove such stenographic, clerical, and other secretarial assistants as may be required for the proper conduct of the office, subject to the provisions of Title 11 (Civil Service) of the Revised Statutes, and other applicable statutes, and within the limits of funds appropriated or otherwise made available therefor. In addition, and within such funding limits, the ombudsman may appoint, retain, or employ, without regard to the provisions of the said Title 11 (Civil Service), or any other statutes, such officers, investigators, experts, consultants, or other professionally qualified personnel on a contract basis or otherwise as necessary.

c. Appoint and employ, notwithstanding the provisions of P.L.1944, c.20 (C.52:17A-1 et seq.), a general counsel and such other attorneys or counsel as he or she may require, for the purpose, among other things, of providing legal advice on such matters as the ombudsman may from time to time require, of attending to and dealing with all litigation, controversies, and legal matters in which the office may be a party or in which its rights and interests may be involved, and of representing the office in all proceedings or actions of any kind which may be brought for or against it in any court of this State. With respect to all of the foregoing, such counsel and attorneys shall be independent of any supervision or control by the Attorney General or by the Department of Law and Public Safety, or by any division or officer thereof;

d. Have authority to adopt and promulgate pursuant to law such rules and regulations as necessary to carry out the purposes of this act;

e. Maintain suitable headquarters for the office and such other quarters as necessary to the proper functioning of the office;

f. Solicit and accept grants of funds from the federal government and from other public and any private sources for any of the purposes of this act; provided, however, that any such funds shall be expended only pursuant to an appropriation made by law;

g. Perform such other functions as may be prescribed in this act or by any other law; and

h. Establish, in consultation with the Department of Health, an annual long-term care training program in a manner to be determined by the ombudsman. At a minimum, the program shall address the following subjects: the rights of residents of long-term care facilities; fostering choice and independence among residents of long-term care facilities; identifying and reporting abuse, neglect, or exploitation of residents of long-term care facilities; long-term care facility ownership; updates on State and federal guidelines, laws, and regulations that pertain to long-term care facilities; and issues, trends, and policies that impact the rights of long-term care residents. The annual training program shall be completed by the ombudsman's investigative and advocacy staff, the ombudsman's volunteer advocates, and Department of Health long-term care facility surveyors, inspectors, and complaint investigators. Subject to the availability of staff and funding, the training program shall be offered to residents of long-term care facilities, those residents' family members, advocacy organizations, government agencies, and long-term care facility employees. To develop and implement the training program, the ombudsman may contract or consult with a non-profit organization that possesses expertise on the rights of residents in long-term care settings.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 295

AN ACT concerning certain credits and rate reductions for dental insurers related to the coronavirus disease 2019 pandemic.

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

1. a. A carrier writing a dental benefits plan in this State shall issue to each policyholder in good standing with a plan that was in effect on March 27, 2020, regardless of whether the plan has since been terminated, a credit as provided in subsection b. of this section in an amount equivalent to the value of any reduced claims experience due to the limitations of dental services for the period beginning on March 27, 2020 and ending on May 26, 2020. A carrier shall not condition the issuance of the credit on the renewal of the plan by the policyholder.

b. The credit required by subsection a. of this section shall be calculated retroactively to plans in effect on March 27, 2020. The credit may be returned to the policyholder in the form of a direct refund, or credit toward future premiums, and shall apply to both fully paid and monthly billed plans. A policyholder shall not be required to take any action to receive the refund or credit. The refund or credit shall be applied for the period beginning on March 27, 2020 and ending on May 26, 2020.

c. A carrier writing a dental benefits plan in this State shall provide to the Department of Banking and Insurance, on or before May 31, 2021, a report containing all actions taken to reduce premiums in compliance with P.L.2021, c.295. The report shall include information for New Jersey policyholders and an explanation and justification for the amount and duration of any premium reductions issued by the carrier, based on the carrier's claim and premium data. The report shall also provide monthly and overall totals for the months of March, April, and May of 2020 for the following: aggregate premium prior to, and subject to, application of refunds or adjustments; aggregate premium refunds and adjustments; the number of in-force plans, and number of policyholders receiving refunds or adjustments.

d. As used in this act:

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation, dental service corporation, or dental plan organization authorized to issue dental benefits plans in this State, but shall not include any entity that:

(1) issued a credit or refund to policyholders in an amount equivalent to 50% or more of one month's premium for each policyholder for the period of March through June 2020;

(2) waived frequency limits for the 2020 plan year;

(3) waived deductibles or maximum annual rollover limitations; or

(4) has taken any actions to assist policyholders that the Commissioner of Banking and Insurance deems sufficient to excuse the entity from the provisions of this act.

"Dental benefits plan" means a benefits plan which pays or provides dental expense benefits for covered dental services and is delivered or issued for delivery in this State by or through a carrier on a stand-alone basis.

2. This act shall not apply to a provider network contract for dental services provided to beneficiaries of the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the Medicare program established pursuant to the federal Social Security Act (42 U.S.C. s.1395 et seq.), the State Health Benefits Program, the School Employees' Health Benefits Program, or the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

3. This act shall take effect immediately and shall be retroactive to March 27, 2020.

Approved November 8, 2021.

CHAPTER 296

AN ACT concerning a return to employment by a school nurse after retirement from the Teachers' Pension and Annuity Fund and amending N.J.S.18A:66-53.2.

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

1. N.J.S.18A:66-53.2 is amended to read as follows:

Reemployment of retireant, reenrollment; subsequent retirement.

18A:66-53.2. a. Except as provided in subsection b. of this section, if a former member of the retirement system who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, his former retirement allowance shall be reinstated together with any optional selection, based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this article; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

b. The cancellation, reenrollment, and additional retirement allowance provisions of subsection a. of this section shall not apply to a former member of the retirement system who is a certificated superintendent or a certificated administrator and who, after having been granted a retirement allowance, becomes employed by the State Department of Education in a position of critical need as determined by the State Commissioner of Education, or becomes employed by a board of education as a certificated superintendent or a certificated administrator, or who is a certified school nurse and who, after having been granted a retirement allowance, becomes employed by a board of education as a certified school nurse, on a contractual basis for a term of not more than one year; except that the cancellation, reenrollment, and additional retirement allowance provisions shall apply if the former member becomes employed within 120 days of retirement, or if the former member becomes employed as a certified school nurse within 180 days of retirement, with the employer from which the member retired. Nothing herein shall preclude a former member so reemployed with a board of education from renewing a

contract for one additional year; provided that the total period of employment with any individual board of education does not exceed a two-year period, unless so approved by the Commissioner of Education as being in the best interests of the school district; and provided that no such renewal shall provide the former member an election regarding whether or not to be reenrolled.

c. A former member of the retirement system who has been granted a retirement allowance, for any cause other than disability, may become employed again with the former employer in a position as a coach of an athletics activity if: (1) the employment commences after the retirement allowance becomes due and payable; (2) the former member had attained the service retirement age, applicable to that member, as of the date of retirement; and (3) the compensation for the employment is less than $15,000 per year. This subsection shall be effective if the qualified status of the retirement system under federal law can be maintained upon its application, and such modifications to the system as may be available shall be made to allow for its application. As used in this section, "former employer" means the employer with which the former member held employment immediately prior to retirement.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 297

AN ACT concerning the practice of accounting and amending P.L.2008 c.45 and P.L.1997, c.259.

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

1. Section 6 of P.L.2008 c.45 (C.45:2B-50.1) is amended to read as follows:

C.45:2B-50.1 Standards for individual with principal place of business out-of-State.

6. a. An individual whose principal place of business is not in this State shall be presumed to have qualifications substantially equivalent to this State's requirements for certified public accountants and shall have all the privileges of licensed certified public accountants of this State without the need to obtain a license under P.L.1997, c.259 (C.45:2B-42 et seq.) or to notify the board or pay any fee if that individual:

(1) Holds a valid license as a certified public accountant from any state which the National Association of State Boards of Accountancy's (NASBA) National Qualification Appraisal Service has verified to be in substantial equivalence with the certified public accountant licensure requirements of the American Institute of Certified Public Accountants (AICPA) and NASBA Uniform Accountancy Act; or

(2) Holds a valid license as a certified public accountant from any state which the NASBA's National Qualification Appraisal Service has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the AICPA/NASBA Uniform Accountancy Act, but that individual obtains from the NASBA's National Qualification Appraisal Service verification that the individual's personal certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of the AICPA/NASBA Uniform Accountancy Act.

b. In accordance with the provisions of this section and notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means, shall be granted practice privileges in this State and no notice or other submission shall be required of that individual. Such individual shall be subject to the requirements of subsection c. of this section.

c. An individual licensee of another state exercising the privilege afforded by this section and the firm that employs that licensee hereby simultaneously consent, as a condition of exercising that privilege:

(1) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) To comply with P.L.1997, c.259 (C.45:2B-42 et seq.) and the regulations promulgated pursuant to that act;

(3) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this State individually and on behalf of a firm; and

(4) To the appointment of the state board or other authority that issued the individual's license as the individual's agent upon which process may be served in any action or proceeding by this State's board against the licensee.

d. An individual who has been granted the practice privilege under this section or who has a license issued pursuant to section 10 of P.L.1997, c.259 (C.45:2B-51), who performs any attest service may only do so through a firm which meets the requirements of subparagraph (c) of paragraph (1) of

subsection a. of section 13 of P.L.1997, c.259 (C.45:2B-54), or that is registered pursuant to P.L.1997, c.259 (C.45:2B-42 et seq.).

e. A licensee of this State offering or rendering services or using a title provided in section 21 of P.L.1997, c.259 (C.45:2B-62) in another state shall be subject to disciplinary action in this State for an action committed in another state for which the licensee would be subject to discipline for an act committed in that state. The board shall investigate any complaint made by the board of accountancy or other licensing authority of another state.

f. Any individual who passed the Uniform Certified Public Accountant Examination and holds a valid license issued by any other state prior to January 1, 2012 shall be exempt from the 150 hour education requirement in subsection c. of section 8 of P.L.1997, c.259 (C.45:2B-49).

2. Section 13 of P.L.1997, c.259 (C.45:2B-54) is amended to read as follows:

C.45:2B-54 Requirements for registration of firm in practice of attest services or public accountancy.

13. a. The board shall only grant or renew registration to a firm engaged in the practice of attest services or public accountancy if that firm meets the requirements provided in this section.

(1) A firm shall register with the board if it:

(a) Has an office in this State engaged in the practice of attest services;

(b) Has an office in this State that uses the title "Certified Public Accountant," "CPA," "Certified Public Accountant firm," or "CPA firm;" or

(c) Does not have an office in this State, but offers or renders attest services, as defined in section 3 of P.L.1997, c.259 (C.45:2B-44), unless it meets each of the following requirements:

(i) It complies with the qualifications described in subsection b. of this section;

(ii) It complies with the qualifications described in section 26 of P.L.1997, c.259 (C.45:2B-67); and

(iii) It can lawfully offer or render attest services in the state where those individuals with practice privileges have their principal place of business.

(2) A firm that is not subject to the requirements of paragraph (1) of this subsection may perform compilation services and professional services other than attest services while using the title "Certified Public Accountant," "CPA," "Certified Public Account firm," or "CPA firm," without registering with the board only if:

(a) It can lawfully do so in the state where those individuals with practice privileges have their principal place of business; and

(b) It performs those services through an individual with practice privileges under subsection d. of section 6 of P.L.2008, c.45 (C.45:2B-50.1).

(3) (Deleted by amendment, P.L.2019, c.10)

(a) (Deleted by amendment, P.L.2019, c.10)

(b) (Deleted by amendment, P.L.2019, c.10)

(4) (Deleted by amendment, P.L.2019, c.10)

b. A firm seeking to register with the board shall meet the following requirements:

(1) (Deleted by amendment, P.L.2019, c.10);

(2) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of a firm, in terms of financial interest and voting rights of all partners, officers, shareholders, members, or managers, shall belong to certified public accountants of any state or possession of the United States or the District of Columbia in good standing, and licensed to practice public accountancy where licensed. Other than a nonlicensee owner, any partner, officer, shareholder, member, or manager whose principal place of business is in this State shall be a certified public accountant in good standing, and licensed to practice public accountancy in this State; and

(3) There shall be a certified public accountant in the firm who has ultimate responsibility for each attest engagement. On all firm applications and renewal forms, a licensee or an individual who qualifies for the practice privilege under section 6 of P.L.2008, c.45 (C.45:2B-50.1) shall be designated as responsible and in charge of all professional matters relating to the practice of accountancy by the registered firm. Each owner of a firm in this State, other than a nonlicensee, personally engaged within this State in the practice of public accountancy shall be a certified public accountant in good standing, and licensed to practice public accountancy in this State, or shall be an individual who qualifies for the practice privilege under section 6 of P.L.2008, c.45 (C.45:2B-50.1).

c. Application for registration of a firm shall be made upon the affidavit of an owner of the firm who is a certified public accountant in good standing and licensed to practice public accountancy in this State or who qualifies for the practice privilege under section 6 of P.L.2008, c.45 (C.45:2B-50.1). The board shall in each case determine whether the applicant is eligible for registration. A firm which is so registered may use the words "certified public accountant" or the abbreviation "CPAs" in connection with its firm name. Notification shall be given to the board within 90 days after admission or withdrawal of an owner licensed and practicing in this State from any firm so registered.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 298

AN ACT concerning the classification of offenses committed in other jurisdictions, amending N.J.S.2C:1-4 and N.J.S.2C:44-4 and supplementing Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:1-4 is amended to read as follows:

Classes of offenses.

2C:1-4. Classes of Offenses.

a. (1) An offense defined by this code or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State. Crimes are designated in this code as being of the first, second, third or fourth degree.

(2) An offense defined by the laws of any other jurisdiction, for which a sentence of imprisonment in excess of one year is authorized, shall be considered in this State to be a crime when a reference is made by this code, or by any other statute of this State, to such offense.

b. (1) An offense is a disorderly persons offense if it is so designated in this code or in a statute other than this code. An offense is a petty disorderly persons offense if it is so designated in this code or in a statute other than this code. Disorderly persons offenses and petty disorderly persons offenses are petty offenses and are not crimes within the meaning of the Constitution of this State. There shall be no right to indictment by a grand jury nor any right to trial by jury on such offenses. Conviction of such offenses shall not give rise to any disability or legal disadvantage based on conviction of a crime.

(2) (a) An offense defined by the laws of any other jurisdiction, for which a sentence of imprisonment of one year or less, but more than 30 days, is authorized, shall be considered in this State to be a disorderly persons offense when a reference is made by this code, or by any other statute of this State, to such offense.

(b) An offense defined by the laws of any other jurisdiction, for which a sentence of imprisonment of 30 days or less is authorized, shall be considered in this State to be a petty disorderly persons offense when a reference is made by this code, or by any other statute of this State, to such offense.

c. An offense defined by any statute of this State other than this code shall be classified as provided in this section or in section 2C:43-1 and, except as provided in subsection b. of 2C:1-5 and chapter 43, the sentence that may be imposed upon conviction thereof shall hereafter be governed by this code. Insofar as any provision of this State outside the code declares an offense to be a misdemeanor when such offense specifically provides a maximum penalty of 6 months' imprisonment or less, whether or not in combination with a fine, such provision shall constitute a disorderly persons offense.

d. Subject to the provisions of section 2C:43-1, reference in any statute, rule, or regulation of this State outside the code to the term "high misdemeanor" shall mean crimes of the first, second, or third degree and reference to the term "misdemeanor" shall mean all crimes.

2. N.J.S.2C:44-4 is amended to read as follows:

Definition of prior conviction; conviction in another jurisdiction; proof of prior conviction.

2C:44-4. Definition of Prior Conviction; Conviction in Another Jurisdiction; Proof of Prior Conviction.

a. Prior conviction of an offense. An adjudication by a court of competent jurisdiction that the defendant committed an offense constitutes a prior conviction.

b. Prior conviction of a crime. An adjudication by a court of competent jurisdiction that the defendant committed a crime constitutes a prior conviction, although sentence or the execution thereof was suspended, provided that the time to appeal has expired and that the defendant was not pardoned on the ground of innocence.

c. Prior conviction in another jurisdiction. A conviction in another jurisdiction shall constitute a prior conviction of a crime if a sentence of imprisonment in excess of one year was authorized under the law of the other jurisdiction.

d. Proof of prior conviction. Any prior conviction may be proved by any evidence, including fingerprint records made in connection with arrest, conviction or imprisonment, that reasonably satisfies the court that the defendant was convicted.

C.2C:1-4.1 Crime, disorderly persons offense, petty disorderly persons offense, construing out-of-State conviction.

3. When a provision in Title 2C of the New Jersey Statutes, any other statute, rule, regulation, or ordinance of this State, or any certification or application form promulgated thereunder, refers to a conviction of "a similar crime in another state," a conviction under the laws of "any other state or the United States," a conviction under the laws of "any other jurisdiction," or contains similar phrasing referring to a conviction of a criminal offense outside this State, the conviction shall be construed in this State as a crime, disorderly persons offense, or petty disorderly persons offense, as set forth in paragraph (2) of subsection a. of N.J.S.2C:1-4, paragraph (2) of subsection b. of N.J.S.2C:1-4, and subsection c. of N.J.S.2C:44-4.

4. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 299

AN ACT establishing a task force to study the quality of online education provided by public and independent institutions of higher education , and certain proprietary institutions, during the COVID-19 pandemic.

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

1. a. There is established a task force for the purpose of examining the quality, efficacy, costs, and educational outcomes of online courses offered by public and independent institutions of higher education , and proprietary institutions licensed to offer academic degrees, during the COVID-19 pandemic and providing recommendations for potential improvements in the delivery of online courses to students.

b. The task force shall consist of 17 members as follows:

(1) the Secretary of Higher Education, ex officio, or a designee;

(2) one public member appointed by the President of the Senate and one public member appointed by the Minority Leader of the Senate, both of whom have expertise in issues related to the delivery of online courses in higher education;

(3) one public member appointed by the Speaker of the General Assembly and one public member appointed by the Minority Leader of the

General Assembly, both of whom have expertise in issues related to the delivery of online courses in higher education; and

(4) 12 members appointed by the Governor, including: the president of a public research university, or a designee; the president of a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, or a designee; the president of a county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes, or a designee; the president of an independent institution of higher education, or a designee; the president of a proprietary institution licensed to offer academic degrees, or a designee; a representative of the American Association of University Professors; a representative of the Council of New Jersey State College Locals AFT/AFL-CIO; a representative of the New Jersey Education Association; two individuals who are chief information officers or equivalent positions, one of whom shall be employed at a four-year institution of higher education and one of whom shall be employed at a county college; and two students, one of whom shall be currently enrolled in a four-year institution of higher education and one of whom shall be currently enrolled in a county college.

c. Appointments to the task force shall be made within 30 days of the effective date of this act. Vacancies in the membership of the task force shall be filled in the same manner as the original appointments were made. Members of the task force shall serve without compensation, but shall be reimbursed for necessary expenditures incurred in the performance of their duties as members of the task force within the limits of funds appropriated or otherwise made available to the task force for its purposes.

d. The task force shall organize not later than 30 days following the appointment of its members. The task force shall choose a chairperson from among its members and shall appoint a secretary who need not be a member of the task force.

e. The Office of the Secretary of Higher Education shall provide such stenographic, clerical, and other administrative assistants, and such professional staff as the task force requires to carry out its work. The task force also shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available for its purposes.

2. a. The task force shall study and consider issues including, but not limited to, the following:

(1) the manner in which public and independent institutions of higher education and degree-granting proprietary institutions shifted to online learning following the issuance of Executive Order No. 104 of 2020 and the methods undertaken by institutions to resume in-person courses following the issuance of Executive Order No. 155 and Executive Order No. 175 of 2020;

(2) a description of each institution's strategy in delivering education to students, including whether an institution offered all of its classes online, in person, or through a hybrid program of online and in-person courses;

(3) a description of the technology and software utilized by the institutions to provide online courses to students;

(4) the costs borne by institutions and students in the shift to online learning that occurred as a result of Executive Order No. 104 of 2020 and throughout the pandemic;

(5) a description and assessment of the efforts and policies set forth by the institutions to ensure that students had access to the technology and other resources necessary to complete online courses during the pandemic;

(6) the effect that offering an increased volume of online classes had on student enrollment and retention compared to the prior academic year and on the cost of attendance;

(7) the traditional cost of offering an online course at each institution compared to the cost of offering an in-person course, and how the COVID-19 pandemic affected that cost;

(8) the perceptions of students, faculty, and staff of the quality and value of online courses as compared to courses provided in person;

(9) a comparison of the average completion rate and average grade for students enrolled in each online course offered by each institution during the COVID-19 pandemic and the average completion rates and grades for those courses in the prior academic year. The comparison shall indicate whether or not the courses were provided online or in person in the previous academic year; and

(10) an assessment of the policies and procedures each public and independent institution of higher education and each degree-granting proprietary institution has in place to ensure that institutional support, technological support, and faculty support are provided to students enrolled in online courses to ensure a high quality educational experience.

b. The task force shall issue a final report of its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than two years after the task force organizes.

c. The task force shall expire 30 days after the issuance of its final report.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 300

AN ACT concerning coronavirus disease 2019 deaths in long-term care facilities and veterans' homes.

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

1. a. As used in this section:

"Long-term care facility" means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

b. Notwithstanding the provision of any executive order or law to the contrary, the Internet website of the Department of Health shall display, at all times, the total number of confirmed deaths caused by coronavirus disease 2019 (COVID-19) and confirmed COVID-19 cases among employees, volunteers, and other persons providing services at long-term care facilities in this State, as well as among residents of long-term care facilities in this State, which reported data shall be regularly updated by the department to ensure it includes the total number of reported COVID-19 deaths and cases for the period commencing from the date of the first reported case of COVID-19 in New Jersey through the most recent date for which the data are available. The reported data shall include both Statewide numbers and numbers specific to each long-term care facility, to the extent facility-specific numbers can be reported without violating State or federal health information privacy rules.

2. This act shall take effect immediately and shall expire 365 days following the end of both the state of emergency and the public health emergency declared in response to the coronavirus disease 2019.

Approved November 8, 2021.

CHAPTER 301

AN ACT concerning certain contracts for public work and amending and supplementing P.L.1963, c.150.

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

C.34:11-56.27a Lowest bidder of public work contract, proof of prevailing wage rates payment; rules, regulations.

1. a. If a person makes the lowest bid for a contract with a public body for public work subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) and that bid is ten percent or more lower than the next lowest bid for the contract, the person making the lowest bid shall certify to the public body that the prevailing wage rates required by that act shall be paid. If the bidder does not provide the certification prior to award of the contract, the public body shall award the contract to the next lowest responsible and responsive bidder. This certification shall be required only when a public body is engaging in competitive bidding for public work.

b. The Commissioner of Labor and Workforce Development, in consultation with the Division of Local Government Services in the Department of Community Affairs, shall promulgate rules and regulations concerning the standardization of the certification necessary to effectuate the provisions of this section.

2. Section 3 of P.L.1963, c.150 (C.34:11-56.27) is amended to read as follows:

C.34:11-56.27 Prevailing wage rate required in contract.

3. a. Every contract in excess of the prevailing wage contract threshold amount for any public work to which any public body is a party or for public work to be done on property or premises owned by a public body or leased or to be leased by a public body shall contain a provision stating the prevailing wage rate which can be paid (as shall be designated by the commissioner) to the workers employed in the performance of the contract and the contract shall contain a stipulation that such workers shall be paid not less than such prevailing wage rate. Such contract shall also contain a provision that in the event it is found that any worker, employed by the contractor or any subcontractor covered by said contract, has been paid a rate of wages less than the prevailing wage required to be paid by such contract, the public body, the lessee to whom the public body is leasing a property or premises or the lessor from whom the public body is leasing or will be leasing a property or premises may terminate the contractor's or subcontractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages and to prosecute the work to completion or otherwise. The contractor and his sureties shall be liable for any excess costs

occasioned thereby to the public body, any lessee to whom the public body is leasing a property or premises or any lessor from whom the public body is leasing or will be leasing a property or premises.

b. The Commissioner of Labor and Workforce Development, in consultation with the Division of Local Government Services, shall promulgate rules and regulations concerning the standardization of the contractual language necessary to effectuate the provisions of this section.

3. This act shall take effect 180 days from the date of enactment, except that the Commissioner of Labor and Workforce Development make take any anticipatory action in advance thereof as may be necessary for the implementation of this act.

Approved November 8, 2021.

CHAPTER 302

AN ACT concerning nursing education and professional advancement and supplementing Title 26 of the Revised Statutes.

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

C.45:11-81 Review of current nursing curriculum, education, clinical experience requirements; modifications.

1. a. The Board of Nursing shall review the current nursing curriculum and education and clinical experience requirements for the completion of a nursing degree and make or recommend such modifications as the board deems appropriate to incorporate, as part of such requirements, the Nursing Home Infection Preventionist Training Course, or any successor course, offered through the federal Centers for Disease Control and Prevention.

b. The Board of Nursing shall review the current nursing curriculum and make or recommend such modifications as the board deems appropriate to ensure that licensed practical nurses and registered nurses receive adequate training on post-acute care.

C.45:11-82 Review of current nursing education, clinical experience requirements, certification, professional advancement for nurse aides; modifications.

2. The Department of Health shall review the current education and clinical experience requirements for the certification and professional

advancement of certified nurse aides and make or recommend such modifications as the department deems appropriate to incorporate, as part of such requirements, the appropriate portions of the Nursing Home Infection Preventionist Training Course, or any successor course, offered through the federal Centers for Disease Control and Prevention, or a similar course offered through the Association for Professionals in Infection Control and Epidemiology with respect to infection control or prevention in long-term care facilities, and any additional or supplemental modules or courses as the department deems appropriate.

C.45:11-83 Pilot program for standards development for certified nurse aide professional advancement.

3. The Department of Health, in consultation with one or more long-term care facilities in this State, or a representative thereof, and representatives of labor organizations, shall establish a pilot program to develop standards or identify a model that contains standards for the professional advancement of certified nurse aides. The standards for the professional advancement of certified nurse aides may be based on: previous work experience, education level, participation in educational opportunities, training, and work performance. The standards for the professional advancement of certified nurse aides may also be based on any applicable out-of-State models for the professional advancement of certified nurse aides.

C.45:11-84 Rules, regulations.

4. The Commissioner of Health shall adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the provisions of this act.

5. This act shall take effect on the first day of the sixth month next following the date of enactment.

Approved November 8, 2021.

CHAPTER 303

AN ACT concerning vaccines and supplementing Title 45 of the Revised Statutes.

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

C.45:6-19.7 Influenza vaccines administered by approved dentist; certification; report to New Jersey Immunization Information System.

1. a. If a dentist is approved by the New Jersey State Board of Dentistry to administer human papillomavirus or influenza vaccines and related emergency medications and if the dentist is in compliance with rules promulgated by the New Jersey State Board of Dentistry and the State Board of Medical Examiners, the dentist may administer an influenza vaccine or a human papillomavirus vaccine to a patient who is 18 years of age or older.

b. The New Jersey State Board of Dentistry may certify a dentist to administer immunizations to patients who are 18 years of age or older during a public health emergency declared pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.) which are intended to prevent or reduce the transmission of the disease that is the basis for the declared public health emergency, regardless of whether the board has adopted rules and regulations implementing the provisions of this act.

c. An immunization administered to a patient by a dentist shall be reported by the dentist to the New Jersey Immunization Information System established pursuant to section 4 of P.L.2004, c.138 (C.26:4-134) as required pursuant to N.J.A.C.8:57-3.16, for inclusion in the patient's registry.

2. The New Jersey State Board of Dentistry and the State Board of Medical Examiners shall adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to effectuate the provisions of this act.

3. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 304

AN ACT establishing an Asian American Pacific Islander Commission and supplementing Title 52 of the New Jersey Statutes.

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

C.52:16A-128 New Jersey Asian American Pacific Islander Commission; creation, establishment.

1. The New Jersey Asian American Pacific Islander Commission is created and established in the Executive Branch of the State Government.

For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of State but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or any board or officer thereof.

C.52:16A-129 Commission membership.

2. The commission shall consist of 30 public members representing Asian American Pacific Islander (AAPI) communities.

The public members shall be appointed as follows:

One public member shall be appointed by the Secretary of State;

One public member shall be appointed by Governor from among recommendations made by the President of the Senate; and

One public member shall be appointed by the Governor from among recommendations made by the Speaker of the General Assembly.

The Governor shall appoint the remaining 27 public members, and shall appoint the chair of the commission.

The public members shall have experience advocating on behalf of their community.

C.52:16A-130 Terms of membership.

3. Each public member of the commission shall serve a term of three years, except that in making the first appointments to the commission, 10 public members shall appointed to serve for one year, 10 for two years, and 10 for three years. The length of the respective term for each public member of the first commission shall be determined by lot at the organization of the commission. The public members shall be eligible for reappointment and shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

C.52:16A-131 Conducting official business; annual report.

4. The majority of authorized members of the commission shall be required to conduct official business. The commission shall submit an annual report on its activities to the Governor and the Legislature, pursuant to P.L.1991, c.164 (C.52:14-19.1).

C.52:16A-132 Reimbursement of members.

5. The members of the commission shall serve without compensation, but they shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties.

C.52:16A-133 Assistance from state governmental entities.

6. The commission is authorized to call upon any department, office, division or agency of the State, or of any county, municipality or school district of the State, to supply such data, program reports and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this act. These departments, offices, divisions and agencies shall, to the extent possible, and not inconsistent with any other law of this State, cooperate with the commission and shall furnish it with such information, personnel, and assistance as may be necessary or helpful to accomplish the purposes of the commission.

C.52:16A-134 Responsibilities and duties.

7. The commission shall have the following responsibilities and duties:

a. To develop policies to improve the community, economic, social well-being, health and educational needs important to AAPI communities in New Jersey;

b. To develop and coordinate Statewide programs, recognizing the continuing contributions of AAPI individuals in New Jersey;

c. To draw upon the membership's knowledge and expertise in creating activities designed to better educate all citizens of New Jersey on AAPI issues and culture;

d. To increase the awareness among AAPI individuals of governmental affairs and community and social service resources that may benefit AAPI individuals and communities as a whole.

8. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 305

AN ACT concerning State correctional police officer training, supplementing Title 52 of the Revised Statutes, and amending P.L.2019, c.410 and P.L.1991, c.110.

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

C.52:17B-77.19 State correctional police officer training, infusion of concept of inmate dignity, fairness, respect.

1. a. The Police Training Commission shall, pursuant to its statutory authority to certify correctional police officers as set forth in subsection e. of section 6 of P.L.1961, c.56 (C.52:17B-70), establish and incorporate throughout the required basic training course for State correctional police officers the concept that the core mission of these officers is to treat every inmate with dignity, fairness, and respect.

b. To implement the core mission established in subsection a. of this section, the commission shall ensure that the basic training course for State correctional police officers includes, at a minimum, comprehensive training and education on the following topics:

(1) de-escalation, including training in interacting with combative or threatening inmates and inmates experiencing mental health crises;

(2) minimization of use of force against inmates;

(3) cultural diversity and implicit bias;

(4) appropriate methods of engaging with inmates of diverse cultures and religions and inmates who are members of the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) community and gender nonconforming inmates;

(5) the rights of inmates;

(6) lifestyle stressors, self-awareness, and self-regulation;

(7) maintaining officer and inmate safety;

(8) communication skills; and

(9) any other topic deemed necessary by the commission to advance the core mission of treating inmates with dignity, fairness, and respect.

2. Section 1 of P.L.2019, c.410 (C.30:1B-6.13) is amended to read as follows:

C.30:1B-6.13 Additional training for correctional police officers.

1. a. In addition to the duties of the commissioner set forth in section 6 of P.L.1976, c.98 (C.30:1B-6), the commissioner shall institute a mandatory annual in-service training program of at least 40 hours for each correctional police officer in every State correctional facility. The commissioner shall establish and incorporate in the in-service training program curriculum the concept that the core mission of a State correctional police officer is to treat every inmate with dignity, fairness, and respect.

b. At least four hours of the mandatory 40 hours of training required by subsection a. of this section shall include training in:

(1) sexual assault, sexual abuse, and sexual harassment prevention as required pursuant to the provisions of the federal Prison Rape Elimination Act (PREA);

(2) non-fraternization and undue familiarity; and

(3) conditioning and manipulation awareness.

c. Sixteen hours of the training required by subsection a. of this section shall be dedicated to topics chosen by the training department of each State correctional facility from a list of approved courses developed by the commissioner.

d. The training required in subsection a. of this section shall be in addition to firearms qualification training and use-of force training.

e. Twenty hours of the training required by subsection a. of this section shall include training in:

(1) de-escalation, including training in interacting with combative or threatening inmates and inmates experiencing mental health crises;

(2) minimization of use of force;

(3) cultural diversity and implicit bias;

(4) appropriate methods of engaging with inmates of diverse cultures and religions and inmates who are members of the lesbian, gay, bisexual, transgender, and questioning (LGBTQ) community and gender nonconforming inmates;

(5) the rights of inmates;

(6) lifestyle stressors, self-awareness, and self-regulation;

(7) officer and inmate safety;

(8) communication skills; and

(9) any other topic deemed necessary by the commissioner to advance the core mission of treating inmates with dignity, fairness, and respect.

3. Section 1 of P.L.1991, c.110 (C.30:4-3.11) is amended to read as follows:

C.30:4-3.11 Requirements for correctional police officer.

1. A person shall not be appointed as a correctional police officer of any correctional institution assigned, maintained, or operated by the Department of Corrections unless that person:

a. is a citizen of the United States;

b. is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;

c. is sound in body and of good health;

d. is of good moral character; and

e. has not been convicted of any offense which would make the person unfit to perform the duties of the office as evidenced by a criminal history record background check.

4. This act shall take effect on the first day of the seventh month next following enactment.

Approved November 8, 2021.

CHAPTER 306

AN ACT concerning unauthorized school bus drivers and amending N.J.S.18A:39-20.

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

1. N.J.S.18A:39-20 is amended to read as follows:

Compliance required for assigning bus driver; violations; fine.

18A:39-20. No board of education or contractor shall approve or assign an individual, as a driver or substitute driver of a school bus, without first complying with the provisions of this chapter, and any person violating, or failing to comply with such provisions shall be subject to a fine of:

a. not more than $5,000 for each driver unlawfully approved or assigned for the first offense;

b. not more than $10,000 for each driver unlawfully approved or assigned for the second offense; and

c. not more than $15,000 for each driver unlawfully approved or assigned for a third and each subsequent offense.

It shall not be a defense to avoid liability under this section that a board of education or contractor unknowingly failed to comply with the provisions of this chapter.

2. This act shall take effect immediately.

Approved November 8, 2021.

CHAPTER 307

AN ACT concerning bidding on pupil transportation contracts, amending N.J.S.18A:39-3 and P.L.2005, c.84, and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

1. N.J.S.18A:39-3 is amended to read as follows:

Pupil transportation contracts.

18A:39-3. a. No contract for the transportation of pupils to and from school shall be made, when the amount to be paid during the school year for such transportation shall exceed $7,500.00 or the amount determined pursuant to subsection b. of this section, and have the approval of the executive county superintendent of schools, unless the board of education making such contract shall have first publicly advertised for bids therefor in a newspaper published in the district or, if no newspaper is published therein, in a newspaper circulating in the district, once, at least 10 days prior to the date fixed for receiving proposals for such transportation, and shall have awarded the contract to the lowest responsible bidder.

Nothing in this chapter shall require the advertisement and letting on proposals or bids of annual extensions, approved by the executive county superintendent, of any contract for transportation entered into through competitive bidding when--

(1) Such annual extensions impose no additional cost upon the board of education, regardless of the fact that the route description has changed; or

(2) The increase in the contractual amount as a result of such extensions does not exceed the rise in the Consumer Price Index as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year, regardless of the fact that the route description has changed or an aide has been added or removed; or

(3) (Deleted by amendment, P.L.1982, c.74.)

(4) The increase in the contractual amount as a result of an extension exceeds the rise in the Consumer Price Index as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year, but the following apply to the extensions:

(a) The increase is directly attributable to a route change to accommodate new student riders or safety concerns as provided for in the original bid, or

the increase is directly attributable to the addition of an aide as provided for in the original bid; and

(b) The school destination remains unchanged from the original contract.

Any such extension as described in this paragraph shall require the approval of the executive county superintendent of schools.

Nothing in this chapter shall require the immediate bid of any contract renewal for the remainder of a school year in which the only change, in addition to route description, is the bus type. However, any such extension shall be approved by the executive county superintendent of schools and shall be bid for the next school year.

No annual extension shall be granted pursuant to this subsection to a person who has been debarred from bidding on a pupil transportation contract pursuant to the provisions of section 3 of P.L.2021, c.307 (C.18A:39-11.5).

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L.1985, c.469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify all local school districts of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

c. A bid for a pupil transportation contract shall identify each person who has any ownership interest in the company submitting a bid for the pupil transportation contract.

d. Prior to awarding any pupil transportation contract, a board of education shall review the debarment list maintained pursuant to section 3 of P.L.2021, c.307 (C.18A:39-11.5). No pupil transportation contract shall be awarded to any person who is debarred from bidding pursuant to the provisions of section 3 of P.L.2021, c.307 (C.18A:39-11.5).

e. As used in this section, "person" means an individual and any business, including any corporation, partnership, association, or proprietorship in which such individual is a principal, or with respect to which the individual owns, directly or indirectly, or controls any of the stock or other equity interest of such business.

2. Section 2 of P.L.2005, c.84 (C.18A:39-11.3) is amended to read as follows:

C.18A:39-11.3 Disqualification of bidder; "prior negative experience" defined.

2. a. A board of education may, by resolution approved by a majority of the board of education and subject to the provisions of subsection b. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder for a pupil transportation contract, if the board of education finds that it has had prior negative experience with the bidder. The disqualification shall be for a reasonable, defined period of time which shall not exceed three years.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been determined to be "nonperforming" under a pupil transportation contract after a hearing which shall include the bidder, the superintendent of schools, and the county superintendent of schools. The county superintendent of schools shall make the determination as to nonperformance and this determination may be appealed to the Commissioner of Education and the State Board of Education, as provided by law;

(2) the bidder defaulted on a transportation contract thereby requiring the board of education to utilize the services of another contractor to complete the contract;

(3) the bidder defaulted on a transportation contract thereby requiring the board of education to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder has any ownership interest in any contractor that had prior negative experience with the board of education as described in paragraphs (1) through (3) of this subsection or in any contractor that is debarred from bidding on a pupil transportation contract pursuant to the provisions of section 3 of P.L.2021, c.307 (C.18A:39-11.5).

C.18A:39-11.5 Debarment from bidding on pupil transportation contract.

3. a. The Department of Education shall provide for the debarment from bidding on any pupil transportation contract of a person for causes that include, but are not limited to:

(1) the employment or assignment of an individual as a school bus driver who has been disqualified to serve as a school bus driver or determined ineligible to operate a school bus pursuant to the provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1);

(2) failure to comply with the provisions of section 1 of P.L.2018, c.152 (C.18A:39-19.6);

(3) failure to comply with the provisions of the "School Bus Enhanced Safety Inspection Act," P.L.1999, c.5 (C.39:3B-18 et seq.), or any rules or regulations promulgated thereunder;

(4) commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;

(5) commission of a criminal offense that includes child abuse or sexual misconduct involving a child;

(6) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more pupil transportation contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

(7) knowingly submitting a bid for a pupil transportation contract that fails to contain the information required pursuant to subsection c. of N.J.S.18A:39-3 that would have included a person debarred from bidding on a pupil transportation contract pursuant to the provisions of this section; or

(8) debarment by some other department or agency in the Executive Branch of the New Jersey State government.

b. The debarment shall be for a reasonable, defined period of time not less than one year and not to exceed five years.

c. The existence of any of the causes set forth in subsection a. of this section shall not necessarily require that a person be debarred from bidding on a pupil transportation contract. In each instance, the decision to debar shall be made within the discretion of the Commissioner of Education or the School Bus Safety Ombudsman, unless otherwise required by law, and shall be rendered in the best interest of the State.

d. The Department of Education shall provide written notice to any person subject to debarment pursuant to the provisions of this section. A person subject to debarment may, within 30 days beginning from the date upon which the person receives written notice of the debarment, file a challenge of the cause for debarment to the Commissioner of Education. If no challenge is filed or if the determination of debarment is upheld, notification of the debarment shall be forwarded to the New Jersey Motor Vehicle Commission, each executive county superintendent in the State, and each board of education in the State. Notification of the debarment shall be posted on the Department of Education's Internet website pursuant to the provisions of subsection e. of this section.

e. A list of persons debarred from bidding on a pupil transportation contract shall be maintained on the Department of Education's Internet website and shall be distributed to each school district and board of education in the

State by March 1 of each year. The Commissioner of Education or School Bus Safety Ombudsman may determine to keep the names of such persons debarred pursuant to the provisions of this section on the list beyond completion of any debarment period instituted pursuant to the provisions of this section.

f. As used in this section:

"Child abuse" means any conduct that falls under the purview and reporting requirements of P.L.1971, c.437 (C.9:6-8.8 et seq.) and is directed toward or against a child or student, regardless of the age of the child or student.

"Person" means an individual and any business, including any corporation, partnership, association, or proprietorship in which such individual is a principal, or with respect to which the individual owns, directly or indirectly, or controls any of the stock or other equity interest of such business.

"Sexual misconduct" means any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a child or student that is designed to establish a sexual relationship with the child or student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialogue, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature, and any other sexual, indecent, or erotic contact with a child or student.

4. The State Board of Education shall adopt in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

5. This act shall take effect upon the enactment of P.L.2021, c.471 (C.18A:39-34 et seq.) and shall apply to any pupil transportation contract entered into or renewed on or after the effective date of this act.

Approved November 8, 2021.

CHAPTER 308

AN ACT concerning the gross income tax credit for child and dependent care expenses, amending P.L.2018, c.45.

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

1. Section 5 of P.L.2018, c.45 (C.54A:4-17) is amended to read as follows:

C.54A:4-17 Certain credits permitted.

5. a. A resident taxpayer with New Jersey taxable income of $150,000 or less who is allowed a credit for expenses for household and dependent care services for federal income tax purposes pursuant to section 21 of the Internal Revenue Code (26 U.S.C. s.21) shall be allowed a credit against the tax otherwise due pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. The credit shall be in an amount equal to a percentage of the credit allowed the taxpayer for federal income tax purposes for the taxable year, according to the following schedule:

NJ taxable income is:	Amount of NJ credit is:
Not over $30,000	50% of federal credit
over $30,000 but not over $60,000	40% of federal credit
over $60,000 but not over $90,000	30% of federal credit
over $90,000 but not over $120,000	20% of federal credit
over $120,000 but not over $150,000	10% of federal credit.

The $150,000 income limit set forth in this subsection shall apply to taxpayers of any filing status.

b. If the amount of the credit allowed pursuant to this section exceeds the amount of gross income tax otherwise due pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the amount of excess shall be treated as a refundable overpayment.

c. Married couples shall file a joint return in order to claim the credit provided by this section. A taxpayer eligible to receive a credit pursuant to paragraph (3) or (4) of subsection (e) of section 21 of the federal Internal Revenue Code (26 U.S.C. s.21) shall be eligible for the credit provided by this section, provided the taxpayer satisfies the income limit set forth in subsection a. of this section.

d. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant's residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

2. This act shall take effect immediately and shall apply retroactively to taxable years beginning on and after January 1, 2021.

Approved December 3, 2021.

CHAPTER 309

AN ACT concerning student speech and supplementing chapters 36 and 62 of Title 18A of the New Jersey Statutes.

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

C.18A:36-44 School student's right to freedom of speech and press.

1. a. Except as otherwise provided in section 2 of this act, a public school student shall have the right to exercise freedom of speech and of the press.

b. By the first full school year next following the date of enactment of this act, each school district shall adopt a written policy concerning student freedom of expression in accordance with the provisions of section 2 of this act. The policy shall include reasonable provisions for the time, place, and manner of student expression. The policy may also include limitations on language that may be defined as profane, harassing, threatening, or intimidating.

C.18A:36-45 Definitions relative to student's right to freedom of speech and press.

2. a. As used in this section:

"School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public school, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. School-sponsored media does not include media intended for distribution or transmission solely in the classroom in which the media is produced.

"Student journalist" means a public school student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

"Student media adviser" means an individual employed, appointed, or designated by a school district to supervise or provide instruction relating to school-sponsored media.

b. Except as otherwise provided in subsection c. of this section, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the school district or by use of school district facilities, or produced in conjunction with a class in which the student is enrolled. Subject to subsection c. of this section, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection shall not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.

c. This section does not authorize or protect expression by a student that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) is profane or obscene;

(4) violates federal or State law; or

(5) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policies, or the material and substantial disruption of the orderly operation of the school.

d. A school district shall not authorize any prior restraint of any school-sponsored media except for the types of expression described in subsection c. of this section. When a school official determines that the restraint of student expression is necessary, the school official shall simultaneously identify the provision within subsection c. of this section under which the limitation of student expression is appropriate.

e. A school district shall not sanction a student operating as an independent journalist.

f. An employee of a school district shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or paragraph 6 of Article I of the New Jersey Constitution.

C.18A:62-67 Definitions relative to student's right to freedom of speech and press.

3. a. As used in this section:

"School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public institution of higher education, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. School-sponsored media does not include media intended for

distribution or transmission solely in the classroom in which the media is produced.

"Student journalist" means a student at a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

"Student media adviser" means an individual employed, appointed, or designated by a public institution of higher education to supervise or provide instruction relating to school-sponsored media.

b. Except as otherwise provided in subsection c. of this section, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the public institution of higher education or by use of institution facilities, or produced in conjunction with a course in which the student is enrolled. Subject to subsection c. of this section, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection shall not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.

c. This section does not authorize or protect expression by a student that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) is profane or obscene;

(4) violates federal or State law; or

(5) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of policies of the public institution of higher education, or the material and substantial disruption of the orderly operation of the institution.

d. An employee of a public institution of higher education shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or paragraph 6 of Article I of the New Jersey Constitution.

4. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 310

AN ACT concerning telemedicine and telehealth, amending P.L.2017, c.117, repealing P.L.2020, c.3 and P.L.2020, c.7, and making an appropriation.

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

1. Section 8 of P.L.2017, c.117 (C.26:2S-29) is amended to read as follows:

C.26:2S-29 Carrier offering a health benefits plan to provide coverage, payment.

8. a. A carrier that offers a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the plan when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A carrier may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall a carrier:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video

capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit a carrier from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow a carrier to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Carrier" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Covered person" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Health benefits plan" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

2. Section 7 of P.L.2017, c.117 (C.30:4D-6k) is amended to read as follows:

C.30:4D-6k State Medicaid, NJ FamilyCare programs to provide coverage, payment.

7. a. The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. The State Medicaid and NJ FamilyCare programs may limit coverage to services that are delivered by participating health care providers, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall the State Medicaid and NJ FamilyCare programs:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit the State Medicaid or NJ FamilyCare programs from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the recipient's benefits plan; or

(2) allow the State Medicaid or NJ FamilyCare programs to require a benefits recipient to use telemedicine or telehealth in lieu of obtaining an in-person service from a participating health care provider.

d. The Commissioner of Human Services, in consultation with the Commissioner of Children and Families, shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this section and to secure federal financial participation for State expenditures under the federal Medicaid program and Children's Health Insurance Program.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Benefits recipient" or "recipient" means a person who is eligible for, and who is receiving, hospital or medical benefits under the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), or under the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as appropriate.

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Participating health care provider" means a licensed or certified health care provider who is registered to provide health care services to benefits

recipients under the State Medicaid or NJ FamilyCare programs, as appropriate.

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

3. Section 1 of P.L.2017, c.117 (C.45:1-61) is amended to read as follows:

C.45:1-61 Definitions relative to telemedicine and telehealth.

1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to, or from, an originating site or to, or from, the health care provider at a distant site, which allows for the patient to be evaluated without being physically present.

"Cross-coverage service provider" means a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another health care provider who has established a proper provider-patient relationship with the patient.

"Distant site" means a site at which a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, is located while providing health care services by means of telemedicine or telehealth.

"Health care provider" means an individual who provides a health care service to a patient, and includes, but is not limited to, a licensed physician, nurse, nurse practitioner, psychologist, psychiatrist, psychoanalyst, clinical social worker, physician assistant, professional counselor, respiratory therapist, speech pathologist, audiologist, optometrist, or any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes.

"On-call provider" means a licensed or certified health care provider who is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the provider has temporarily assumed responsibility, as designated by the patient's primary care provider or other health care provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.). "Telemedicine" does not include the use, in isolation, of electronic mail, instant messaging, phone text, or facsimile transmission.

"Telemedicine or telehealth organization" means a corporation, sole proprietorship, partnership, or limited liability company that is organized for the primary purpose of administering services in the furtherance of telemedicine or telehealth.

4. Section 2 of P.L.2017, c.117 (C.45:1-62) is amended to read as follows:

C.45:1-62 Provision of health care through use of telemedicine, telehealth; requirements for provider.

2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients. Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be construed to allow a provider to require a patient to use telemedicine or telehealth in lieu of receiving services from an in-network provider.

b. Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance

with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction.

c. (1) Telemedicine services may be provided using interactive, real-time, two-way communication technologies or, subject to the requirements of paragraph (2) of this paragraph, asynchronous store-and-forward technology.

(2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to provide services with or without the use of interactive, real-time, two-way audio if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person and informs the patient of this determination at the outset of the telemedicine or telehealth encounter.

(3) (a) At the time the patient requests health care services to be provided using telemedicine or telehealth, the patient shall be clearly advised that the telemedicine or telehealth encounter may be with a health care provider who is not a physician, and that the patient may specifically request that the telemedicine or telehealth encounter be scheduled with a physician. If the patient requests that the telemedicine or telehealth encounter be with a physician, the encounter shall be scheduled with a physician.

(b) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient at the time the patient schedules services to be provided using telemedicine or telehealth, if available, or upon confirmation of the scheduled telemedicine or telehealth encounter, and shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services. If the health care provider is not a physician, and the patient requests that the services be provided by a physician, the health care provider shall assist the patient with scheduling a telemedicine or telehealth encounter with a physician.

(4) A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be entered into the patient's medical record, whether the medical record is a physical record, an electronic health record, or both, and, if so requested to by the patient, forwarded directly to the patient's primary care provider, health care provider of record or any other health care providers as may be specified by the patient. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, shall assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for in-person care or emergency or complementary care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

d. (1) Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.

(2) Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online static questionnaire.

(3) In the event that a mental health screener, screening service, or screening psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.) determines that an in-person psychiatric evaluation is necessary to meet standard of care requirements, or in the event that a patient requests an in-person psychiatric evaluation in lieu of a psychiatric evaluation performed using telemedicine or telehealth, the mental health screener, screening service, or screening psychiatrist may nevertheless perform a psychiatric evaluation using telemedicine and telehealth if it is determined that the patient cannot be scheduled for an in-person psychiatric evaluation within the next 24 hours. Nothing in this paragraph shall be construed to

prevent a patient who receives a psychiatric evaluation using telemedicine and telehealth as provided in this paragraph from receiving a subsequent, in-person psychiatric evaluation in connection with the same treatment event, provided that the subsequent in-person psychiatric evaluation is necessary to meet standard of care requirements for that patient.

e. The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

f. A mental health screener, screening service, or screening psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.):

(1) shall not be required to obtain a separate authorization in order to engage in telemedicine or telehealth for mental health screening purposes; and

(2) shall not be required to request and obtain a waiver from existing regulations, prior to engaging in telemedicine or telehealth.

g. A health care provider who engages in telemedicine or telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall maintain a complete record of the patient's care, and shall comply with all applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of the patient's medical record.

h. A health care provider shall not be subject to any professional disciplinary action under Title 45 of the Revised Statutes solely on the basis that the provider engaged in telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.).

i. (1) In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State, shall each adopt rules and regulations that are applicable to the health care providers under their respective jurisdictions, as may be necessary to implement the

provisions of this section and facilitate the provision of telemedicine and telehealth services. Such rules and regulations shall, at a minimum:

(a) include best practices for the professional engagement in telemedicine and telehealth;

(b) ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary, and meet current quality of care standards;

(c) include measures to prevent fraud and abuse in connection with the use of telemedicine and telehealth, including requirements concerning the filing of claims and maintaining appropriate records of services provided; and

(d) provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with services provided using telemedicine and telehealth as currently apply to services provided in person.

(2) In no case shall the rules and regulations adopted pursuant to paragraph (1) of this subsection require a provider to conduct an initial in-person visit with the patient as a condition of providing services using telemedicine or telehealth.

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.

5. Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is amended to read as follows:

C.52:14-17.29w State Health Benefits Commission to provide coverage, payment.

9. a. The State Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the State Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any

deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall a health benefits contract purchased by the State Health Benefits Commission:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the State Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The State Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

6. Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is amended to read as follows:

C.52:14-17.46.6h School Employees Health Benefits Commission to provide coverage, payment.

10. a. The School Employees' Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the School Employees' Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation. In no case shall a health benefits contract purchased by the School Employees' Health Benefits Commission:

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth, except to ensure that the services provided using telemedicine and telehealth meet the same standard of care as would be provided if the services were provided in person;

(2) restrict the ability of a provider to use any electronic or technological platform to provide services using telemedicine or telehealth, including, but not limited to, interactive, real-time, two-way audio, which may be used in combination with asynchronous store-and-forward technology without video capabilities, including audio-only telephone conversations, to provide services using telemedicine or telehealth, provided that the platform used:

(a) allows the provider to meet the same standard of care as would be provided if the services were provided in person; and

(b) is compliant with the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164;

(3) deny coverage for or refuse to provide reimbursement for routine patient monitoring performed using telemedicine and telehealth, including remote monitoring of a patient's vital signs and routine check-ins with the patient to monitor the patient's status and condition, if coverage and reimbursement would be provided if those services are provided in person, and the provider is able to meet the same standard of care as would be provided if the services were provided in person; or

(4) limit coverage only to services delivered by select third-party telemedicine or telehealth organizations.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the School Employees' Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The School Employees' Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Asynchronous store-and-forward" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Distant site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Originating site" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine or telehealth organization" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

7. a. A carrier that offers a health benefits plan in this State shall provide coverage, without the imposition of any cost sharing requirements, including deductibles, copayments, or coinsurance, prior authorization requirements, or other medical management requirements, for the following items and services furnished during any portion of the federal state of emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic:

(1) testing for COVID-19, provided that a health care practitioner has issued a medical order for the testing; and

(2) items and services furnished or provided to an individual during health care provider office visits, including in-person visits and telemedicine and telehealth encounters, urgency care center visits, and emergency department visits, that result in an order for administration of a test for COVID-19, but only to the extent that the items and services relate to the furnishing or administration of the test for COVID-19 or to the evaluation of the individual for purposes of determining the need of the individual for that test.

b. As used in this section, "carrier," means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State, and shall include the State Health Benefits Program and the School Employees' Health Benefits Program.

8. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

9. a. The Commissioner of Health shall conduct a study to assess whether or to what extent coverage and payment for health care services delivered to a covered person through telemedicine or telehealth should be reimbursed at a

provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, as well as to assess whether telemedicine and telehealth may be appropriately used to satisfy network adequacy requirements applicable to health benefits plans in New Jersey. In conducting the study, the commissioner shall consider the effect of the availability and provision of health care services delivered through telemedicine or telehealth upon utilization, access to care, patient outcomes, and patient satisfaction; whether the delivery of services through telemedicine or telehealth affects the standard, quality, or cost of care; whether different or more stringent utilization management requirements should be adopted for coverage and payment for health care services delivered through telehealth or telemedicine; how the incentivization of the provision of telehealth and telemedicine services impacts underserved populations; and any consideration the commissioner deems relevant. As part of the study, the commissioner may also consider the adoption and impact of reimbursement requirements for telehealth and telemedicine in other jurisdictions. Nothing herein shall preclude the commissioner, in the commissioner's discretion, from engaging, contracting, or entering into an agreement with one or more third-party vendors to conduct all or part of the study required by the subsection. Such vendor may consider or analyze any additional factors or information the vendor deems relevant to the study, as approved by the commissioner. The commissioner or such vendor shall consult with the Commissioner of Banking and Insurance, the State Treasurer, and the Commissioner of Human Services in conducting the study.

b. The commissioner shall prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, no later than the first day of the eighteenth month next following the effective date of P.L.2021, c.310 outlining the commissioner's findings and any recommendations for legislation, administrative action, or other actions as the commissioner deems appropriate. Such recommendations shall not on their own be binding on any health benefits plan in New Jersey, State Medicaid and NJ FamilyCare, the State Health Benefits Plan, or the School Employees' Health benefits Plan. Nothing herein shall preclude the commissioner, in the commissioner's discretion, from engaging, contracting, or entering into an agreement with one or more third-party vendors to prepare the report required by this subsection.

c. There is appropriated from the General Fund to the Department of Health the sum of $500,000 to effectuate the provisions of this section.

Repealer.

10. P.L.2020, c.3 and P.L.2020, c.7 are repealed.

11. a. For the period beginning on the effective date of P.L.2021, c.310 and ending on December 31, 2023, a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth at a provider reimbursement rate that equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey, provided the services are otherwise covered by the health benefits plan when delivered through in-person contact and consultation in New Jersey. The requirements of this subsection shall not apply to:

(1) a health care service provided by a telemedicine or telehealth organization that does not provide the health care service on an in-person basis in New Jersey; or

(2) a physical health care service that was provided through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including through audio-only telephone conversation. The reimbursement rate for a physical health care service that is subject to this paragraph shall be determined under the contract with the provider; provided that the reimbursement rate for a physical health care service when provided through audio-only telephone conversation shall be at least 50 percent of the reimbursement rate for the service when provided in person.

(3) The provisions of paragraph (2) of this subsection shall not apply to a behavioral health service that was provided through real-time, two-way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, including audio-only telephone conversation. A behavioral health care service described in this paragraph shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.

b. For the purposes of this section:

"Carrier" means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State.

"Covered person" means the same as that term is defined in section 2 of P.L.1997, c.192 (C.26:2S-2); a "benefits recipient" as that term is defined under section 7 of P.L.2017, c.117 (C.30:4D-6k); and a person covered under

a contract purchased by the State Health Benefits Commission or the School Employees' Health Benefits Commission.

"Health benefits plan" means a benefits plan which pays hospital or medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier or a contract purchased by the State Health Benefits Commission or the School Employees' Health Benefits Commission. The term shall include the State Medicaid program established pursuant to P.L.1968, c.410 (C.30:4D-1 et seq.) and the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).

12. This act shall take effect immediately and shall apply to all health benefits plans or contracts issued or renewed on or after that date. Section 7 of this act shall expire upon the end of the federal state of emergency declared in response to the coronavirus disease 2019 pandemic.

Approved December 21, 2021.

CHAPTER 311

AN ACT concerning certain training for prospective teachers and supplementing chapter 26 of Title 18A of the New Jersey Statutes.

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

C.18A:26-2.31 Mandatory culturally responsive teaching training for certification.

1. a. Beginning with the 2022-2023 school year, all candidates for teaching certification who have completed an educator preparation program at a commissioner-approved educator preparation program provider shall have satisfactorily completed a course or training on culturally responsive teaching.

b. All commissioner-approved educator preparation program providers shall review and update their educator preparation programs to implement the requirements of this section and submit the revisions to the Department of Education for approval.

c. As used in this section, "culturally responsive teaching" means a pedagogy that recognizes the importance of including students' cultural references in all aspects of learning, and which uses research-based teaching strategies that make meaningful connections between what students learn in school and their cultures, languages, and experiences.

2. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 312

AN ACT concerning services for certain inmates and amending and supplementing various parts of the statutory law.

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

1. Section 2 of P.L.2009, c.329 (C.30:1B-6.2) is amended to read as follows:

C.30:1B-6.2 Information provided to inmate prior to release; rules, regulations.

2. The Commissioner of Corrections shall provide to each inmate at least 10 days prior to release from a State correctional facility:

a. A copy of the inmate's criminal history record and written information on the inmate's right to have his criminal records expunged under chapter 52 of Title 2C of the New Jersey Statutes;

b. General written information on the inmate's right to vote under R.S.19:4-1;

c. General written information on the availability of programs, including faith-based and secular programs, that would assist in removing barriers to the inmate's employment or participation in vocational or educational rehabilitative programs, including but not limited to, information concerning the "Rehabilitated Convicted Offenders Act," P.L.1968, c.282 (C.2A:168A-1 et seq.) and the certificate of rehabilitation under P.L.2007, c.327 (C.2A:168A-7 et seq.);

d. A detailed written record of the inmate's participation in educational, training, employment, and medical or other treatment programs while the inmate was incarcerated;

e. A written accounting of the fines, assessments, surcharges, restitution, penalties, child support arrearages, and any other obligations due and payable by the inmate upon release;

f. (Deleted by amendment, P.L.2020, c.45)

g. A copy of the inmate's birth certificate, as issued by the Department of Health, Office of Vital Statistics, if the inmate was born in New Jersey;

h. Assistance in obtaining a Social Security card;

i. A one-day New Jersey bus or rail pass;

j. A two-week supply of prescription medication and, to the extent consistent with clinical guidelines, a two-week prescription order with two additional refills;

k. General written information concerning child support, including child support payments owed by the inmate, information on how to seek child support payments and information on where to seek services regarding child support, child custody, and establishing parentage; and

l. (1) A medical discharge summary, which shall include instructions on how to obtain from the commissioner a copy of the inmate's full medical record. Upon request from the inmate, the commissioner shall provide a copy of the inmate's full medical record in a safe and secure manner, at no charge to the inmate.

(2) Within 90 days of the effective date of this act, the commissioner, in consultation with the State Board of Medical Examiners, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to ensure that these records are expeditiously and securely provided, in a manner consistent with the provision of medical records by other providers.

C.30:1B-6.2a Commissioner's assistance in obtaining inmate's birth certificate.

2. The Commissioner of Corrections shall offer each inmate, upon request, at least 180 days prior to release from a State correctional facility, assistance with obtaining a copy of the inmate's birth certificate, as issued by the Department of Health, Office of Vital Statistics, if the inmate was born in New Jersey. The commissioner shall ensure that all inmates who were born in New Jersey are notified of their ability to obtain the commissioner's assistance in accessing their birth certificates pursuant to this section.

3. Section 2 of P.L.2020, c.45 (C.30:1B-6.15) is amended to read as follows:

C.30:1B-6.15 Provision of non-driver identification card.

2. a. The Commissioner of Corrections shall provide a non-driver identification card issued by the New Jersey Motor Vehicle Commission to each inmate, free of charge, as soon as practicable, but not less than 10 days prior to the inmate's release from a State correctional facility. The New Jersey Motor Vehicle Commission shall issue the identification card and accept a former inmate's Department of Corrections identification card as two points for the purposes of applying for the identification card.

b. An inmate's Department of Corrections identification card shall be accepted by all State, county, and municipal agencies and New Jersey nonprofit organizations for six months following the date of release from incarceration to allow the released inmate to gain access to services for which the inmate is deemed eligible including, but not limited to, establishing the inmate's identity.

c. Notwithstanding the provisions of subsection b. of this section, whenever Motor Vehicle Commission agencies are closed during a declared public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), a state of emergency, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), or both, the inmate's Department of Corrections identification card shall be accepted by all State, county, and municipal agencies and New Jersey nonprofit organizations in a manner as to allow the released inmate to gain access to services for which the inmate is deemed eligible for the duration of the public health emergency.

4. Section 4 of P.L.2020, c.45 (C.30:1B-6.16) is amended to read as follows:

C.30:1B-6.16 Assistance with applications for enrollment in certain programs.

4. a. The Commissioner of Corrections shall ensure that an inmate is assisted with completing, obtaining any required signatures or authorizations for, and forwarding for processing to the Department of Human Services as soon as practicable but not less than 30 days prior to an inmate's release from incarceration, an online application for enrollment in the Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

b. In addition to the requirements of subsection a. of this section, the Commissioner of Corrections shall also ensure that the inmate is assisted in completing, obtaining any required signatures or authorizations for, and forwarding for processing to the appropriate county welfare agency or board of social services, as soon as practicable but not less than 30 days prior to an inmate's release from incarceration, online applications for enrollment in the following programs:

(1) the Supplemental Nutrition Assistance Program, established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.88-525 (7 U.S.C.s.2011 et seq.); and

(2) the Work First New Jersey program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), which shall include, for inmates who are unable to identify a residence at the time of release, the application for

emergency assistance benefits issued to Work First New Jersey recipients pursuant to section 8 of P.L.1997, c.14 (C.44:10-51).

c. The Department of Human Services shall be required to accept and process the online applications for Medicaid received from the Department of Corrections pursuant to subsection a. of this section.

d. If an inmate is unable to identify a residence at the time of application for benefits pursuant to this section, the Commissioner of Corrections shall, with the inmate's consent, ensure that the address of a reentry organization is used for the purposes of establishing proof of residence to meet any applicable eligibility requirements. The commissioner shall ensure that all inmates who are unable to identify a residence at the time of application for benefits are educated on their ability to select the address of the reentry organization as a residential address pursuant to this subsection.

e. All State, county, and municipal agencies, for the purposes of establishing applicable eligibility requirements, shall:

(1) accept the address of the reentry organization for an inmate who is unable to identify a residence at the time of application for benefits in accordance with subsection d. of this section; and

(2) accept an inmate's Department of Corrections identification card to establish the inmate's identity.

f. An inmate who appears to be eligible for Work First New Jersey assistance shall be screened for immediate need assistance.

5. Section 5 of P.L.2020, c.45 (C.30:1B-6.17) is amended to read as follows:

C.30:1B-6.17 Information provided to county welfare agency, board of social services.

5. a. The Commissioner of Corrections shall provide to the appropriate county welfare agency or board of social services, in advance of an inmate's release, the inmate's name, release date, and contact information, which shall include, but not be limited to, a telephone number or an email address.

b. The commissioner shall provide to reentry organization selected as a residential address pursuant to subsection d. of section 4 of this bill, in advance of an inmate's release, the information required in subsection a. of this section unless the inmate requests that the information not be forwarded.

C.30:8-16.14 Provisions to inmate incarcerated 90 days or longer.

6. The chief executive officer, warden, or keeper of each county correctional facility shall provide to each inmate incarcerated for 90 days or longer at least 30 days prior to release from a facility:

a. a copy of the inmate's criminal history record and written information on the inmate's right to have the inmate's criminal records expunged under chapter 52 of Title 2C of the New Jersey Statutes;

b. general written information on the inmate's right to vote under R.S.19:4-1;

c. general written information on the availability of programs, including faith-based and secular programs, that would assist in removing barriers to the inmate's employment or participation in vocational or educational rehabilitative programs, including but not limited to, information concerning the "Rehabilitated Convicted Offenders Act," P.L.1968, c.282 (C.2A:168A-1 et seq.) and the certificate of rehabilitation under P.L.2007, c.327 (C.2A:168A-7 et seq.);

d. a detailed written record of the inmate's participation in educational, training, employment, and medical or other treatment programs while the inmate was incarcerated;

e. a written accounting of the fines, assessments, surcharges, restitution, penalties, child support arrearages, and any other obligations due and payable by the inmate upon release;

f. a copy of the inmate's birth certificate if the inmate was born in New Jersey;

g. assistance in obtaining a Social Security card;

h. a one-day New Jersey bus or rail pass;

i. a two-week supply of prescription medication and, to the extent consistent with clinical guidelines, a two-week prescription order with two additional refills;

j. general written information concerning child support, including child support payments owed by the inmate, information on how to seek child support payments and information on where to seek services regarding child support, child custody, and establishing parentage; and

k. a medical discharge summary, which shall include instructions on how to obtain from the superintendent a copy of the inmate's full medical record; upon request from the inmate, the superintendent shall provide a copy of the inmate's full medical record in a safe and secure manner, at no charge to the inmate; the superintendent shall comply with rules and regulations, adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), that ensure that these records are expeditiously and securely provided in a manner consistent with the provision of medical records by other providers.

C.30:8-16.15 Annual appropriations for prescription medicine.

7. There shall be annually appropriated to the counties through the annual appropriations act such amounts as shall be deemed necessary to cover the cost of the prescription medicine required pursuant to the provisions of subsection i. of section 6 of P.L.2021, c.312 (C.30:8-16.14).

C.30:8-16.16 Provisions to county welfare agency, reentry organization.

8. a. The chief executive officer, warden, or keeper of each county correctional facility shall provide to the appropriate county welfare agency or board of social services, in advance of the release of an inmate who has been incarcerated for 90 days or longer, the inmate's name, release date, and contact information, which shall include, but not be limited to, a telephone number or an email address.

b. The chief executive officer, warden, or keeper of each county correctional facility shall, with the inmate's consent, provide to the reentry organization selected as a residential address pursuant to subsection d. of section 4 of this bill, in advance of the release of an inmate who has been incarcerated for 90 days or longer, the information required in subsection a. of this section unless the inmate requests that the information not be forwarded.

C.30:8-16.18 Uses of inmate's county correctional facility identification card.

9. a. The New Jersey Motor Vehicle Commission shall accept a former inmate's county correctional facility identification card as two points for the purposes of applying for a non-driver identification card.

b. An inmate's county correctional facility identification card shall be accepted by all State, county, and municipal agencies and New Jersey nonprofit organizations for six months following the date of release from incarceration to allow the released inmate to gain access to services for which the inmate is deemed eligible including, but not limited to, establishing the inmate's identity.

c. Notwithstanding the provisions of subsection b. of this section, whenever the Motor Vehicle Commission agencies are closed during a declared public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), a state of emergency, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), or both, the inmate's Department of Corrections identification card shall be accepted by all State, county, and municipal agencies and New Jersey nonprofit organizations in a manner as to allow the released inmate to gain access to services for which they are deemed eligible for the duration of the public health emergency.

C.30:8-16.17 Various online application enrollments; processing, acceptance.

10. a. As soon as practicable but not less than 30 days prior to the release of an inmate incarcerated for 90 days or longer, the chief executive officer, warden, or keeper of each county correctional facility shall ensure that an inmate is assisted with completing, obtaining any required signatures or authorizations for, and forwarding for processing to the Department of Human Services an online application for enrollment in the Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

b. In addition to the requirements of subsection a. of this section, the chief executive officer, warden, or keeper also shall ensure that such inmate is assisted in completing, obtaining any required signatures or authorizations for, and forwarding for processing to the appropriate county welfare agency or board of social services, as soon as practicable but not less than 30 days prior to an inmate's release from incarceration, online applications for enrollment in the following programs:

(1) the Supplemental Nutrition Assistance Program, established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.88-525 (7 U.S.C. s.2011 et seq.); and

(2) the Work First New Jersey program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), which shall include, for inmates who are unable to identify a residence at the time of release, the application for emergency assistance benefits issued to Work First New Jersey recipients pursuant to section 8 of P.L.1997, c.14 (C.44:10-51).

c. The Department of Human Services shall be required to accept and process the online applications for Medicaid received from the county correctional facilities pursuant to subsection a. of this section.

d. If an inmate is unable to identify a residence at the time of application for benefits pursuant to this section, the chief executive officer, warden, or keeper of each county correctional facility, with the inmate's consent, shall ensure that the address of the reentry organization is used for the purposes of establishing proof of residence to meet any applicable eligibility requirements. The chief executive officer, warden, or keeper of each county correctional facility shall ensure that all inmates incarcerated for 90 days or longer are educated on their ability to select a reentry organization as a residential address pursuant to this subsection.

e. All State, county, and municipal agencies, for the purposes of establishing applicable eligibility requirements, shall:

(1) accept the address of the reentry organization for an inmate who is unable to identify a residence at the time of application for benefits; and

(2) accept an inmate's county correctional facility identification card to establish the inmate's identity.

f. An inmate who appears to be eligible for Work First New Jersey assistance shall be screened for immediate need assistance.

C.30:8-16.19 County reentry coordinator.

11. a. The governing body of each county in this State may, by duly adopted ordinance or resolution, appoint a county reentry coordinator who shall be responsible for evaluating the needs of, and navigating the appropriate treatment and services for, each inmate in a county correctional facility in this State.

b. The county reentry coordinator shall evaluate each inmate in a county correctional facility who has been sentenced to a term of incarceration or ordered detained pending trial following a pretrial detention hearing. The purpose of the evaluation shall be to:

(1) identify which social services and reentry and rehabilitative programs would benefit the inmate including, but not limited to, the Work First New Jersey Substance Abuse Initiative;

(2) determine whether the inmate is eligible to apply for federal, State, and county public assistance program benefits including, but not limited to, State and federal Supplemental Nutrition Assistance Program benefits, Medicaid, and housing assistance program benefits;

(3) determine whether the inmate would benefit from substance use disorder treatment including, but not limited to, medication-assisted treatment; and

(4) identify other appropriate treatment, services, and programs which would benefit the inmate.

c. The evaluation required pursuant to subsection b. of this section shall be conducted in conjunction with the clinical screening of inmates as part of the initial classification process.

d. The county reentry coordinator shall offer assistance to the inmate in accessing any services deemed appropriate for the inmate, based on the evaluation conducted pursuant to subsection b. of this section, by:

(1) assisting the inmate with scheduling and otherwise accessing appropriate treatment, services, and programming upon the inmate's release from the facility;

(2) providing information concerning, and assistance in completing, applications for appropriate State and county public assistance program benefits which shall include, but not be limited to, State and federal Supplemental Nutrition Assistance Program benefits, Medicaid, and housing assistance program benefits. The county reentry coordinator shall make

every effort to ensure that the inmate is actively enrolled in appropriate programming upon or as soon as practicable following the inmate's release from the facility;

(3) providing information concerning available substance use disorder treatment and services including, but not limited to, medication-assisted treatment. The county reentry coordinator shall assist the inmate with scheduling and otherwise accessing appropriate treatment and services upon the inmate's release from the facility;

(4) providing information concerning relevant social services and reentry and rehabilitative programs including, but not limited to, the Work First New Jersey Substance Abuse Initiative. The county reentry coordinator shall assist the inmate with completing applications for and otherwise accessing appropriate services and programming upon the inmate's release from the facility;

(5) providing information concerning services provided by the State's One-Stop Career Centers. The county reentry coordinator shall schedule appointments for the inmate to meet with representatives from the career center and shall register the inmate for participation in any mandatory programming upon the inmate's release from the facility;

(6) providing information concerning insurance eligibility and assistance in completing applications for insurance coverage; the county reentry coordinator shall make every effort to ensure that coverage for the inmate is active upon or as soon as practicable following the inmate's release from the facility; and

(7) providing information concerning any other treatment, services, and programming deemed appropriate based on the evaluation required pursuant to this section.

e. The county reentry coordinator also shall:

(1) provide assistance to each inmate, upon release from a county correctional facility, with obtaining a non-driver identification card;

(2) ensure, to the best of the coordinator's ability, and conditioned on discharge information provided by the Administrative Office of the Courts, that each inmate is released from custody during regular business hours so that the inmate may access appropriate treatment and services immediately upon release; and

(3) ensure each inmate at the time of discharge is provided with the prescription medication required pursuant to paragraph (9) of subsection a. of section 6 of P.L.2021, c.312 (C.30:8-16.14).

f. The county reentry coordinator shall consult and coordinate with the county board of social services or welfare agency, as appropriate, when

providing information or assistance with respect to a benefit or service administered by the board or welfare agency.

C.30:8-16.20 Recording of data.

12. a. The county reentry coordinator shall record data regarding: the number of inmates who are offered services pursuant to section 10 of P.L.2021, c.312 (C.30:8-16.17); the number of inmates who accept the services offered; the types of services provided to each inmate who accepts the services offered; the race, gender, ethnicity, and age of each inmate; a record of any crimes committed by inmates who are released from the facility and the types of crimes committed for a period of three years following the inmate's release; and the number of inmates who were not released, and the reasons why they were not released, from a county correctional facility during regular business hours.

b. The data shall be analyzed to determine whether the rates and nature of rearrests and convictions differ according to whether an inmate received services in accordance with section 10 of P.L.2021, c.312 (C.30:8-16.17). The county reentry coordinator shall annually prepare and transmit the findings to the chief executive officer, warden, or keeper of each county correctional facility, as appropriate; the superintendent, director, or other chief administrative officer of the County Board of Social Services or welfare agency, as appropriate; the governing body of the county in which the correctional facility is located; and the Commissioner of Corrections.

C.30:8-16.21 Peer counseling program development.

13. The county reentry coordinator shall, in collaboration with the chief executive officer, warden, or keeper of a county correctional facility, develop peer counseling programs in the county correctional facility that support the treatment of county inmates with substance use disorders. The warden, director, or administrator may additionally develop initiatives to provide inmates in the custody of the county correctional facility with access to professional substance use disorder counseling.

C.30:8-16.22 Annual meeting.

14. a. The county reentry coordinator shall meet annually with community stakeholders who may offer guidance for evaluating the needs of and providing services to inmates in county correctional facilities including, but not limited to:

(1) the Commissioner of Corrections, or a designee;

(2) the Commissioner of Human Services, or a designee;

(3) the chief executive officer, warden, or keeper of the county correctional facility;

(4) the superintendent, director, or other chief administrative officer of the County Board of Social Services or welfare agency, as appropriate;

(5) the county human services director, or a designee;

(6) the county mental health administrator, or a designee;

(7) the president of a county community college, or a designee;

(8) reentry services providers in the county;

(9) substance use disorder treatment providers in the county; and

(10) a person who previously has received substance use disorder services in the county.

b. Based on the guidance received during the meetings conducted pursuant to subsection a. of this section, the county reentry coordinator shall:

(1) establish best practices for preparing county inmates for release;

(2) identify services available in the county that may be needed by inmates upon release from a county correctional facility including, but not limited to, housing, food, medical care, clothing, substance use disorder treatment; mental health services, employment assistance, and education assistance;

(3) make appropriate recommendations to the county correctional facility and County Board of Social Services or welfare agency with respect to preparing county inmates for successful reentry into the community and reducing recidivism.

C.30:8-16.23 Annual appropriations for county reentry coordinator implementations.

15. There shall be annually appropriated through the annual appropriations act such amounts as shall be deemed necessary to implement the provisions of sections 11 through 14 of P.L.2021, c.312 (C.30:8-16.19 through C.30:8-16.22) concerning the county reentry coordinator.

C.30:1B-6.18 Inmate's use of the reentry organization's address.

16. An inmate released from a State or county correctional facility shall be authorized to use the address of a reentry organization as a mailing address in an application for benefits under the:

a. Medicaid program, established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.);

b. Supplemental Nutrition Assistance Program, established pursuant to the federal "Food and Nutrition Act of 2008," Pub.L.88-525 (7 U.S.C.s.2011 et seq.); and

c. Work First New Jersey program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), provided the inmate consents to the use of the reentry organization's address as their mailing address.

17. Section 5 of P.L.1997, c.14 (C.44:10-48) is amended to read as follows:

C.44:10-48 Eligibility of citizens, eligible aliens.

5. a. Only those persons who are United States citizens or eligible aliens shall be eligible for benefits under the Work First New Jersey program. Single adults or couples without dependent children who are legal aliens who meet federal requirements and have applied for citizenship, shall not receive benefits for more than six months unless (1) they attain citizenship, or (2) they have passed the English language and civics components for citizenship, and are awaiting final determination of citizenship by the federal Immigration and Naturalization Service.

b. The following persons shall not be eligible for assistance and shall not be considered to be members of an assistance unit:

(1) non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

(2) Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to section 8 of P.L.1997, c.14 (C.44:10-51);

(3) illegal aliens;

(4) other aliens who are not eligible aliens;

(5) a person absent from the home who is incarcerated in a federal, State, county or local corrective facility or under the custody of correctional authorities, except as provided by regulation of the commissioner;

(6) a person who: is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under federal or state law;

(7) (Deleted by amendment, P.L.2021, c.312)

(8) a person found to have fraudulently misrepresented his residence in order to obtain means-tested, public benefits in two or more states or jurisdictions, who shall be ineligible for benefits for a period of 10 years from the date of conviction in a federal or state court; or

(9) a person who intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving

benefits, who shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.

c. A person who makes a false statement with the intent to qualify for benefits and by reason thereof receives benefits for which the person is not eligible is guilty of a crime of the fourth degree.

d. Pursuant to the authorization provided to the states under 21 U.S.C. s.862a(d)(1), this State elects to exempt from the application of 21 U.S.C. s.862a(a):

(1) needy persons and their dependent children domiciled in New Jersey for the purposes of receiving benefits under the Work First New Jersey program and food assistance under the federal "Food and Nutrition Act of 2008," Pub.L.110-234 (7 U.S.C. s.2011 et seq.); and

(2) single persons and married couples without dependent children domiciled in New Jersey for the purposes of receiving food assistance under Pub.L.110-234.

18. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 313

AN ACT establishing a program to facilitate the prevention of residential evictions.

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

1. As used in this act:

"Commissioner" means the Commissioner of Community Affairs.

"DCA navigator" means a not-for-profit or other entity, qualified in accordance with department standards, that facilitates the prevention of residential evictions in one or more vicinages of the State through fulfilling the responsibilities of the program delegated to the DCA navigator pursuant to a contract with the department.

"Department" means the Department of Community Affairs.

"Eligible tenant" means a tenant facing or at risk of facing a nonpayment eviction action who has directly or indirectly incurred financial hardship

because of the COVID-19 pandemic and whose household income is not more than 120 percent of the area median income for a household of the same size and composition.

"Nonpayment eviction action" means a residential eviction action for nonpayment, for habitual late payment of rent, or for refusal to pay or agree to a rental increase.

"Program" means the Rental Assistance Navigation Program, established pursuant to section 2 of this act.

"Resource navigator" means an employee or contractor of a DCA navigator.

"Rental assistance" means cash payments to compensate for unpaid rent provided to the landlord by any federal, State, county, or local rental assistance program.

2. The "Rental Assistance Navigation Program" shall be established in the department, and be administered by the department as a program to facilitate the diversion from and prevention of residential evictions due to nonpayment and habitual late payment of rent or for refusal to pay or agree to a rental increase. The department may contract the responsibilities of the program to one or more DCA navigators, as deemed appropriate by the commissioner. The purpose of the program is to provide support for tenants facing or at risk of eviction who have suffered financial hardship as a result of the COVID-19 pandemic and provide resources to alleviate the burden placed on landlord-tenant courts that may be facing increased caseloads and additional resource constraints as a result of the COVID-19 pandemic.

a. The department shall publish information about the program on the department's Internet website, and shall engage in efforts to enhance public awareness of the program among the residential landlords and tenants in the State.

b. As part of the program, Resource Navigators shall be allocated to court vicinages in the State for one year beginning on the effective date of P.L.2021, c.313. Resource Navigators may be proportionally allocated to vicinages based on need, as determined by the number of nonpayment eviction filings in the vicinage or according to other criteria established by the department.

c. Each Resource Navigator shall attend eviction proceedings where possible in the Resource Navigator's vicinage or vicinages and shall otherwise conduct outreach and work in conjunction with the department, the Administrative Office of the Courts, and local resource agencies of the county or counties that comprise the Resource Navigator's assigned vicinage or vicinages to identify eligible tenants as defined by section 1 of P.L.2021, c.313.

d. A Resource Navigator shall provide services to eligible tenants in the Resource Navigator's vicinage or vicinages in the form of information and connections to resources that may help the eligible tenant avoid eviction, which may include but need not be limited to:

(1) information about the availability of local, State, or federal rental assistance and other benefits, including benefits intended to provide relief due to hardships incurred because of the COVID-19 pandemic, and about how to apply for such assistance and other benefits;

(2) information about how to obtain protections against evictions, including those protections established in subsection d. of section 3 of P.L.2021, c.188 (C.52:27D-287.9) for households that were unable to pay rent due to circumstances arising from the COVID-19 pandemic;

(3) connections to counseling, legal services, and other resources related to helping eligible tenants prevent evictions;

(4) connections to other intervention supports for households facing financial hardships; and

(5) any other services or supports the department or the DCA navigator deems necessary to assist an eligible tenant in avoiding eviction.

e. A DCA navigator and a Resource Navigator shall have experience in fulfilling one or more responsibilities of the program and shall be qualified in accordance with criteria established by the department.

3. The department may collaborate with counties and municipalities that received an allocation of federal Emergency Rental Assistance from the United States Department of the Treasury to facilitate the collection of applications for and distribution of such assistance.

4. On or before June 1, 2023, the commissioner, in consultation with the Administrative Director of the Courts, shall submit a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to detail the outcomes of the program, providing information that shall include, but shall not be limited to:

a. the number of eligible tenants who have been served by the program; and

b. non-personally identifiable information on the race, ethnicity, gender, primary language spoken, household size, and vicinage of tenants assisted by the program.

5. Notwithstanding the limitations established in section 1 of P.L.2011, c.215 (C.52:14B-3a) on the use of regulatory guidance documents, the

commissioner may prepare and disseminate regulatory guidance documents as defined in subsection d. of section 1 of P.L.2011, c.215 (C.52:14B-3a), in advance of the adoption of regulations as necessary for the administration of this act.

6. The Commissioner of Community Affairs shall consult with the Division of Disaster Recovery and Mitigation to effectuate the purposes of this act, to establish appropriate administrative costs, and to ensure that any expenditure of federal funds in connection to this act are expended in compliance with federal rules and guidance, including with respect to the American Rescue Plan Act, Pub.L.117-2.

7. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 314

AN ACT concerning temporary modifications to the taxes and credits of casino licensees, permanent modifications to the types of promotional gaming credits, and priority funding for certain programs funded from the Casino Revenue Fund, and amending P.L.2008, c.12 and P.L.1983, c.578.

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

1. a. Notwithstanding the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or any law, rule, or regulation to the contrary, the Division of Gaming Enforcement shall calculate the adjusted taxable revenue for each casino licensee for the 12-month period beginning January 1, 2021 and ending December 31, 2021. Adjusted taxable revenue shall be determined by subtracting the amount of promotional gaming credits eligible for a deduction pursuant to section 2 of P.L.2008, c.12 (C.5:12-144.2) from the actual gross revenue of each casino licensee over that 12-month period. The division shall then apply the tax rates set forth in subsection b. of this section to the adjusted taxable revenue of each casino licensee, and the division shall also apply an 8 percent tax rate to the taxable gross revenue of each casino licensee. Each casino licensee shall be allowed a credit against the tax imposed under section 144 of P.L.1977, c.110 (C.5:12-144) for the 12-

month period following the effective date of this act in an amount representing the difference between the amount calculated by applying an 8 percent tax rate to the adjusted taxable gross revenue of each casino licensee and the amount calculated by applying the tax rates set forth in subsection b. of this section to the adjusted taxable revenue of each casino licensee. This credit shall be allowed in monthly installments in one-twelfth increments.

b. The Division of Gaming Enforcement shall calculate the casino win of each casino licensee for the four-month period beginning January 1, 2021 and ending April 30, 2021 as a percentage of the casino win of each casino gaming property for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019. For the purposes of the calculation performed pursuant to subsection a. of this section, the rate applicable to a casino licensee shall be as follows:

(1) for each casino licensee for which casino win for the four-month period beginning January 1, 2021 and ending April 30, 2021 are at least 50 percent and less than 75 percent of the casino win for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019, the tax rate used for the calculation performed pursuant to subsection a. of this section shall be 6.8 percent; and

(2) for each casino licensee for which casino win for the four-month period beginning January 1, 2021 and ending April 30, 2021 are at least 75 percent and less than 100 percent of the casino win for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019, the tax rate used for the calculation performed pursuant to subsection a. of this section shall be 7.4 percent.

c. A casino licensee for which casino win for the four-month period beginning January 1, 2021 and ending April 30, 2021 are 100 percent or more of the casino win for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019 shall be allowed a credit against the tax imposed under section 144 of P.L.1977, c.110 (C.5:12-144) for the 12-month period following the effective date of this act in an amount that is 90 percent of the lowest credit dollar amount allowed to a casino pursuant to the calculation performed under subsection a. of this section. This credit shall be allowed in monthly installments in one-twelfth increments.

d. Each casino licensee allowed a credit under this section shall submit to the State Treasurer and the Division of Gaming Enforcement, at the same time that the credit is claimed, a report documenting that an amount equal to the entire dollar amount allowed as a credit under this act is being expended by the licensee for any of the following purposes:

(1) the prompt re-hiring and employment of the casino licensee's former employees and new applicants, which shall include a certification by each casino licensee that the licensee has made a good faith effort to rehire former and new employees commensurate with an increase in business activity;

(2) attracting tourists, gaming, and hospitality patrons to visit and stay at the casino hotel property;

(3) marketing and promotion for events that would draw visitors to the property or Atlantic City, such as entertainment and conventions; and

(4) any other activity deemed by the State Treasurer or the division to be beneficial to the return of pre-emergency economic, gaming, and tourism levels to Atlantic City.

A casino licensee's failure to submit the report required under this subsection shall deem the licensee ineligible to receive the credit under this act for each month.

2. Section 1 of P.L.2008, c.12 (C.5:12-38a) is amended to read as follows:

C.5:12-38a "Promotional gaming credit."

1. "Promotional gaming credit" - A slot machine credit, sports wagering credit, match play coupon, table game wager coupon, or other item approved by the division that is issued by a licensee to a patron for the purpose of enabling the placement of a wager at a slot machine, a gaming table, or in a sports pool in the licensee's casino or through the licensee's Internet gaming system. No such credit shall be reported as a promotional gaming credit unless the casino licensee can establish that the credit was issued by the casino licensee and received from a patron as a wager at a slot machine, a gaming table, or in a sports pool in the licensee's casino or Internet gaming system.

3. Notwithstanding the provisions of section 2 of P.L.2008, c.12 (C.5:12-144.2), and any other law, rule, or regulation to the contrary, a casino licensee shall be entitled during the 24-month period commencing on the first day of the calendar month following the effective date of this act, P.L.2021, c.314, and ending on the last day of the 24th month thereafter to receive a monthly deduction from the gross revenue taxed pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144) in an amount equal to the full amount of promotional gaming credits, including match play coupons and table game wager coupons, reported each month by that licensee. The $90,000,000 threshold specified under section 2 of P.L.2008, c.12 (C.5:12-144.2) shall not apply during the 24-month period specified under this section.

4. No casino operator shall use funds or savings resulting from P.L.2021, c.314 to repurchase stock or stock options, issue a dividend, or provide for bonuses for any officer or executive employee.

5. Nothing in this act, P.L.2021, c.314 shall affect the tax liabilities imposed on any amount received by a casino from casino simulcasting pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.), from Internet gaming pursuant to section 17 of P.L.2013, c.27 (C.5:12-95.19), or from sports wagering pursuant to P.L.2018, c.33 (C.5:12A-10 et al.).

6. Section 4 of P.L.1983, c.578 (C.27:25-28) is amended to read as follows:

C.27:25-28 "The Senior Citizen and Disabled Resident Transportation Assistance Program"; purposes.

4. a. The board shall establish and administer a program to be known as "The Senior Citizen and Disabled Resident Transportation Assistance Program" for the following purposes:

(1) To assist counties to develop and provide accessible feeder transportation service to accessible fixed-route transportation services where such services are available, and accessible local transit service to senior citizens and the disabled, which may include but not be limited to door-to-door service, fixed route service, local fare subsidy, and user-side subsidy, which may include but not be limited to private ride or taxi fare subsidy; and to coordinate the activities of the various participants in this program in providing the services to be rendered at the county level and between counties; and

(2) To enable the corporation to develop, provide and maintain capital improvements that afford accessibility to fixed route and other transit services in order to make rail cars, rail stations, bus shelters and other bus equipment accessible to senior citizens and the disabled; to render technical information and assistance to counties eligible for assistance under this act; and to coordinate the program within and among counties.

b. In the State fiscal year beginning July 1 following the effective date of P.L.2009, c.261 and in each fiscal year thereafter, there shall be appropriated to the corporation from the revenues deposited in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) a sum equal to 8.5 percent of the revenues deposited in the fund during the preceding fiscal year, as determined by the State Treasurer, to effectuate the purposes and provisions of P.L.1983, c.578 (C.27:25-25 et seq.).

Notwithstanding the provisions of any other law, rule, or regulation to the contrary, for the State Fiscal Years 2022, 2023, and 2024, appropriations to the corporation from the revenues deposited in the Casino Revenue Fund or the Property Tax Relief Fund, as appropriate, shall be given priority to ensure that the corporation receives an amount equal to 8.5 percent of the sum of the revenues deposited in the Casino Revenue Fund during the preceding fiscal year, adding back any reductions in revenues during the preceding fiscal year that directly resulted from the temporary credit allowable under section 1 of P.L.2021, c.314 or the temporary deduction allowable under section 3 of the P.L.2021, c.314, as determined by the State Treasurer, to effectuate the purposes and provisions of P.L.1983, c.578 (C.27:25-25 et seq.).

7. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 315

AN ACT concerning the operations and obligations of casino gaming properties, and the finances of the municipality in which they are located, amending P.L.1977, c.110, and amending and supplementing P.L.2016, c.5.

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

C.52:27BBBB-19.1 Findings, declarations relative to casino gaming properties.

1. The Legislature finds and declares:

a. The "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.), was enacted on May 27, 2016, to address a dire financial circumstance that affected casino gaming properties in Atlantic City, and the finances of the city itself. Competition from other states in New Jersey's region had siphoned off many of the out-of-State and foreign gamblers who had frequented the casino gaming properties in Atlantic City for many years. The regional competition in casino gaming had a deleterious effect on Atlantic City in several ways, including an increase in unemployment due to the closing of four casino properties out of the 12 that had been operating in the city; a strain on Atlantic City's municipal budget due to property tax refunds required by successful assessment appeals of casino gaming properties in the

years immediately prior to the enactment of that law; and an increased property tax burden on Atlantic City and Atlantic County residents based on the decreasing value of the remaining casino gaming properties.

b. The Legislature responded to this dire financial circumstance by devising a 10-year payment in lieu of property tax (PILOT) program that avoided costly property tax assessment appeals for the operators of casino gaming properties and Atlantic City, and that provided an annual mandatory minimum property tax-related payment to Atlantic City by the casino gaming properties, payments that Atlantic City is able to rely upon each year to support its municipal budget. This annual PILOT payment was first implemented in calendar year 2017, and is to end at the end of calendar year 2026. The operation of the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.) has stabilized the finances of each individual casino gaming property as well as the finances of Atlantic City.

c. The Legislature notes, with interest and approval, the stabilizing effect that the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.) has had on the finances of the Atlantic City and the casino gaming industry during the first five years of the law. The Legislature also notes that two additional casino gaming properties have opened in Atlantic City since the enactment of the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.), and that Atlantic City's overall financial condition is more stable since the casino gaming properties began making PILOT payments. This financial stability benefits the casinos, their employees, property taxpayers in Atlantic City, and all New Jersey residents.

d. The Legislature finds that this financial stability achieved between the casino gaming properties and Atlantic City may be adversely impacted by certain provisions in the current version of the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.). As part of the agreement that led to the enactment of that law, it was determined that each casino gaming property would not pay more in the annual PILOT payments than it paid in property taxes in 2015. This provision was made in order to incentivize the casino gaming properties to enter into the PILOT agreement, which was critical to achieving financial stability for both the casino gaming properties and ensuring Atlantic City's ability to anticipate the amount of PILOT funds they would receive from the casino gaming properties. Separately, the investment alternative tax (IAT) levied on the casinos, which had historically funded the Casino Reinvestment Development Authority, was to be paid instead to Atlantic City for the purposes of paying down the city's debt. The "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.), provided that if, in any year, a casino gaming

property's PILOT payment exceeded its 2015 property tax bill, it would receive a "credit" against its IAT obligation. This crediting mechanism only extends through calendar year 2021, so beginning in calendar year 2022, current law will require each casino operator in Atlantic City to pay their full PILOT and IAT obligations.

e. The Legislature is concerned that, due to the State's public health emergency declared in response to the COVID-19 pandemic, which negatively impacted tourism in Atlantic City by restricting the public's right to travel; closing casino gaming properties for months on end and then allowing them to open only partially for another extended period of time; and closing other businesses that would have been visited by tourists to the city for months as well; requiring each casino gaming property to make an annual PILOT payment, as calculated under the current version of the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.), and also satisfy its full IAT obligations for calendar years 2022 through 2026 may create financial difficulties for those gaming properties.

Similarly, the Legislature is also concerned with the impact on the casino gaming properties in Atlantic City of the total amount of the PILOT payments, as calculated under the current version of the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.), owed by those casino gaming properties, as well as the current manner of determining each individual casino gaming property's PILOT payment responsibility, due to all of the issues experienced in Atlantic City resulting from the public health emergency. The Legislature is concerned that the impact of all of the public health emergency limitations on Atlantic City's casino gaming properties will affect the finances of those casinos for the foreseeable future, and thereby impact their ability to pay the required PILOT payments to the city and impact their ability to contribute to the quality of life of the State's senior and disabled residents who rely on casino revenue deposited into the Casino Revenue Fund to fund programs that reduce property taxes as well as utility assistance programs benefiting those residents.

f. Therefore, the Legislature declares that it is a compelling public purpose for the State to establish appropriate alternative obligations for the final five years of the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.), in order to: (1) adjust policies to reflect the operations of existing casino gaming properties and to compensate for the impacts that the public health emergency, declared in response to the COVID-19 pandemic, has had and will continue to have on in-person and internet gaming, (2) lessen the financial impact of the end of the IAT crediting mechanism at the end of 2021 on the casino gaming properties, and (3) ensure that Atlantic City continues to receive sufficient PILOT payments and IAT

payments to fund its municipal budget. The Legislature further declares that such an alternative is in the best interest of the casino gaming industry which serves as a vital part of the economy of the State, in the best interests of Atlantic City, and in the best interests of the State's senior and disabled residents who rely on casino revenue deposited into the Casino Revenue Fund to fund programs that reduce property taxes as well as rentals, telephone, gas, electric, and utility charges for those populations. The Legislature further declares that it is in the best interests of the casino gaming industry to revise the calculation of the PILOT payment each casino is required to pay under the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.) in order to lessen the impact of these payments on the casino's finances during and after the public health emergency declared in response to the COVID-19 pandemic.

g. As the Legislature is empowered by the provisions of Article VIII, Section I, paragraph 2 of the New Jersey Constitution to grant property tax exemptions by general law, and the Legislature exercised this authority in 2016 through enacting the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et seq.) to create the 10-year PILOT program that began in 2017, the Legislature also has the authority, by law, to revise that PILOT program to thereby address the impact of the expiration of the IAT credit mechanism and its effects on the casino gaming industry in the State, as well as the amount, and calculation, of the PILOT payments required to be paid to Atlantic City by the casino gaming properties in Atlantic City.

h. The Legislature has also determined to address in this act other matters related to the continued successful operation of New Jersey's casino gaming properties by ensuring: (1) that the casino gaming properties dedicate sufficient sources of revenue to provide for necessary capital improvements, and (2) that the City of Atlantic City also has adequate funds available to it for capital improvements and other needed quality of life expenditures.

2. Section 84 of P.L.1977, c.110 (C.5:12-84) is amended to read as follows:

C.5:12-84 Casino license - applicant requirements.

84. Casino License--Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity

and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division. The commission or the division may consider any relevant evidence of financial stability; provided, however, it is presumed that a casino licensee or applicant is financially stable if it establishes by clear and convincing evidence that it meets each of the following standards:

(1) The ability to assure the financial integrity of casino operations by the maintenance of a casino bankroll or equivalent provisions adequate to pay winning wagers to casino patrons when due. A casino licensee or applicant shall be presumed to have met this standard if it maintains, on a daily basis, a casino bankroll, or a casino bankroll and equivalent provisions, in an amount which is at least equal to the average daily minimum casino bankroll or equivalent provisions, calculated on a monthly basis, for the corresponding month in the previous year. For any casino licensee or applicant which has been in operation for less than a year, such amount shall be determined by the division based upon levels maintained by a comparable casino licensee;

(2) The ability to meet ongoing operating expenses which are essential to the maintenance of continuous and stable casino operations. A casino licensee or applicant shall be presumed to have met this standard if it demonstrates the ability to achieve positive gross operating profit, measured on an annual basis;

(3) The ability to pay, as and when due, all local, state and federal taxes, including the tax on gross revenues imposed by subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), the investment alternative tax obligations imposed by subsection b. of section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1), the payment in lieu of property taxes imposed by P.L.2016, c.5 (C.52:27BBBB-18 et al.), and any fees imposed by the act or the regulations promulgated pursuant thereto;

(4) The ability to make necessary capital expenditures in a timely manner which are adequate to ensure a superior, first-class facility of exceptional quality pursuant to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83). A casino licensee or applicant shall be presumed to have met this standard if it demonstrates that its capital expenditures, over the immediately preceding five calendar years, average at least five percent of net revenue, except that any casino licensee or applicant which has been in operation for less than five years shall be required to otherwise establish compliance with this standard to the division; and

(5) The ability to pay, exchange, refinance or extend debts, including long-term and short-term principal and interest and capital lease obligations, which will mature or otherwise come due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts. The division also may require that a casino licensee or applicant advise as to its plans to meet this standard with respect to any material debts coming due and payable within 12 months after the end of the license term.

b. (Deleted by amendment, P.L.2011, c.19)

c. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission and division of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities.

e. Each applicant shall produce such information, documentation and assurances to establish the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83) and that its proposed location will not adversely affect casino operations. Each applicant shall submit to the division an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act and the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof; a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall economic and competitive conditions of Atlantic City and the State of New Jersey.

f. For the purposes of this section, each applicant shall be responsible for the submission to the division of the name, address, fingerprints and written consent for a criminal history record background check to be performed for each person who must individually qualify in conjunction with the casino license application. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the division in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

3. Section 3 of P.L.2016, c.5 (C.52:27BBBB-20) is amended to read as follows:

C.52:27BBBB-20 Definitions relative to stabilization of finances of a municipality in which casino gaming is authorized.

3. a. As used in P.L.2016, c.5 (C.52:27BBBB-18 et al.):

"Atlantic City" means the City of Atlantic City, in Atlantic County;

"Base amount" means, for calendar years 2018 through 2021, the amount of the payment in lieu of taxes as determined by subparagraph (d) of paragraph (3) of subsection c. of this section; and for calendar years 2022 through 2026, the amount of the payment in lieu of taxes as determined by

subparagraphs (e) through (h) of paragraph (3) of subsection c. of this section;

"Casino gaming property" means one or more parcels of real property located in Atlantic City, and any adjacent property utilized in connection with such property, upon which there is located a facility licensed to be used for casino gaming in 2014 or thereafter, whether or not in actual operation, which has more than 500 guest hotel rooms, and is not subject to recorded covenants prohibiting casino gaming;

"Clean and Safe Fund" means the Clean and Safe Fund established pursuant to section 7 of P.L.2021, c.315 (C.52:27BBBB-27);

"Division" means the Division of Gaming Enforcement in the Department of Law and Public Safety;

"Gross gaming revenue" (GGR) means the total amount of revenue raised through casino gaming, including revenue from sports pool operations, from all of the casino gaming properties located in Atlantic City as determined by the division for calendar years 2014 through 2020. For the purpose of determining the amount of the payment in lieu of taxes pursuant to this section, gross gaming revenue shall not include revenue derived from Internet casino gaming and Internet sports wagering during calendar years 2021 through 2026 as determined by the division;

"Infrastructure Fund" means the Infrastructure Fund established pursuant to section 8 of P.L.2021, c.315 (C.52:27BBBB-28);

"Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs; and

"Treasury" means the Department of the Treasury.

b. Beginning with calendar year 2017, and for the next succeeding nine calendar years, casino gaming properties located in Atlantic City shall be exempt from local property taxation on real property and improvements, including accessory hotels, conference centers, parking garages, and other appurtenant facilities, except that any new improvement developed on a casino gaming property that is made outside of the perimeter footprint of any improvement existing as of the effective date of this act and any real property, not formerly qualified as casino gaming property, acquired after such date by an owner of casino gaming property shall not be exempt from local property taxation in any calendar year and shall be subject to local property taxation annually at Atlantic City's general property tax rate. The provisions of this section shall not apply to any casino property that operates under a small scale casino facility license or a staged casino facility license pursuant to section 1 of P.L.2010, c.115 (C.5:12-80.1).

c. (1) In exchange for the property tax exemption granted in subsection b. of this section, each owner of each casino gaming property shall sign a 10-year financial agreement with Atlantic City for each casino gaming property based upon the provisions of P.L.2016, c.5 (C.52:27BBBB-18 et al.) for calendar years 2017 through 2021, which financial agreement shall be amended and continued to reflect and incorporate the amendatory and supplemental provisions of P.L.2021, c.315 (C.52:27BBBB-19.1 et al.) for calendar years 2022 through 2026, promising to make quarterly payments to the city of its allocated portion of the annual amount of the payment in lieu of taxes as determined by this section. The continuation of the agreement for calendar years 2022 through 2026 is also provided in exchange for the prescribed uses of excess amounts of a casino gaming property's investment alternative tax, as described in subsection b. of section 9 of P.L.2016, c.5 (C.52:27BBBB-25). The owner of each casino gaming property shall be responsible for the payments allocated to that property and shall be subject to the lien provisions of R.S.54:5-6 and the interest for delinquency provisions of R.S.54:4-67 if those payments are not made.

(2) Any new owner of a casino gaming property following the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.) shall immediately become responsible for signing the financial agreement with Atlantic City promising to make payments consistent with this section.

(3) (a) The total amount of the payment in lieu of property taxes owed to Atlantic City for calendar year 2017 shall be $120 million. To the extent that any owner of a casino gaming property has paid property taxes for calendar year 2017 prior to the date P.L.2016, c.5 (C.52:27BBBB-18 et al.) becomes operative, the amount of property taxes so paid shall be credited toward that owner's allocated share of the $120 million total payment in lieu of property taxes.

(b) For calendar years 2018, 2019, 2020, and 2021, the amount of the payment in lieu of property taxes owed to Atlantic City shall increase by two percent per year in every year in which there is no upward adjustment to the base amount of the payment in lieu of taxes from the previous calendar year as determined by subparagraph (d) of this paragraph.

(c) For calendar years 2018, 2019, 2020, and 2021, the total amount of the payment in lieu of property taxes owed to Atlantic City shall be the base amount as determined by subparagraph (d) of this paragraph and the total amount of the annual increases to date as determined by subparagraph (b) of this paragraph.

(d) For calendar years 2018, 2019, 2020, and 2021, the base amount of the payment in lieu of taxes shall be determined as follows:

If the amount of the GGR in the preceding calendar year is between $3.4 billion and $3.8 billion, the base amount shall be $165 million, or in the case

of an upward adjustment, $15 million more than the PILOT in the previous year, whichever is greater;

If the amount of the GGR in the preceding calendar year is between $3.0 billion and $3.4 billion, the base amount shall be $150 million, or in the case of an upward adjustment, $20 million more than the PILOT in the previous year, whichever is greater;

If the amount of the GGR in the preceding calendar year is between $2.6 billion and $3.0 billion, the base amount shall be $130 million, or in the case of an upward adjustment, $10 million more than the PILOT in the previous year, whichever is greater;

If the amount of the GGR in the preceding calendar year is between $2.2 billion and $2.6 billion, the base amount shall be $120 million, or in the case of an upward adjustment, $10 million more than the PILOT in the previous year, whichever is greater;

If the amount of the GGR in the preceding calendar year is between $1.8 billion and $2.2 billion and the aggregate gross revenues from all of the casino gaming properties located in Atlantic City from all revenue streams, excluding GGR, have not increased compared to the prior calendar year by more than the amount by which GGR is less than $2.2 billion, as determined by the division, the base amount shall be $110 million, or in the case of an upward adjustment, $20 million more than the PILOT in the previous year, whichever is greater;

If the amount of the GGR in the preceding calendar year is $1.8 billion or less and the aggregate gross revenue from all of the casino gaming properties located in Atlantic City from all revenue streams, excluding GGR have not increased compared to the prior calendar year by more than the amount by which GGR is less than $1.8 billion as determined by the division, the base amount shall be $90 million.

(e) The total amount of the payment in lieu of property taxes owed to Atlantic City for calendar year 2022 shall be $110 million.

(f) For calendar years 2023, 2024, 2025, and 2026, in any calendar year in which there is not an upward or a downward adjustment to the base amount of the payment in lieu of property taxes owed to Atlantic City pursuant to subparagraph (h) of this paragraph, the total amount of the payment in lieu of property taxes owed to Atlantic City for the calendar year shall increase by two percent from the preceding year.

(g) For calendar years 2023, 2024, 2025, and 2026, the total amount of the payment in lieu of property taxes owed to Atlantic City shall be the base amount as determined by subparagraph (h) of this paragraph and the total

amount of the annual increases to date as determined by subparagraph (f) of this paragraph.

(h) For calendar years 2023, 2024, 2025, and 2026, the base amount of the payment in lieu of taxes (PILOT) shall be determined as follows:

If the amount of the GGR in the preceding calendar year is less than $2.3 billion, the base amount shall be $100 million, or in the case of a downward adjustment, $10 million less than the PILOT in the previous year, whichever amount is greater;

If the amount of the GGR in the preceding calendar year is between $2.3 billion and $2.9 billion, the base amount shall be $110 million, or in the case of an upward adjustment, $10 million more than the PILOT in the previous year and in the case of a downward adjustment, $10 million less than the PILOT in the previous year, whichever amount is greater; and

If the amount of the GGR in the preceding calendar year is greater than $2.9 billion, the base amount shall be $120 million, or in the case of an upward adjustment, $10 million more than the PILOT in the previous year, whichever amount is greater.

(4) The amount of the payment in lieu of property taxes owed pursuant to this subsection shall be calculated annually each calendar year for each casino gaming property using a formula implemented by the Local Finance Board, in consultation with the division, using the following criteria:

The geographic footprint of the real property, expressed in acres, owned by each casino gaming property;

The number of hotel guest rooms in each casino gaming property; and

The gross gaming revenue of the casino in each casino gaming property from the prior calendar year.

Each of these three criteria shall bear equal weight in the formula implemented by the Local Finance Board, in consultation with the division, pursuant to this paragraph.

(5) If the formula set forth in paragraph (4) of this subsection results in any individual casino gaming property being allocated an amount that is in excess of the total real property taxes due and payable by the casino gaming property in calendar year 2015, then, in calendar years 2017, 2018, 2019, 2020, and 2021, that casino gaming property shall receive a credit against the obligation of the operator of that property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) in the amount of such excess. If, after that credit against the obligation of the operator of that property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1), that casino gaming property would still be liable for a payment in lieu of property taxes in excess of the total real property taxes

due and payable by the casino gaming property in calendar year 2015, the casino gaming property shall not be required to make any additional payment in lieu of property tax payment. Instead, any additional amount that would have been owed by that casino gaming property shall be added, by proportional share, to the payment in lieu of property taxes to be paid by every other casino gaming property in order to provide Atlantic City the total amount of the payment in lieu of property taxes due and owing for that calendar year, provided that no individual casino gaming property shall be allocated an amount that is less than the total real property taxes due and payable by the casino gaming property in calendar year 2015.

(6) Beginning in calendar year 2022, an individual casino gaming property shall no longer be allowed a credit against the obligation of the operator of that property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) in the amount that the payment in lieu of property taxes owed is in excess of the total real property taxes due and payable by the casino gaming property in calendar year 2015, as allowed under paragraph (5) of this subsection for calendar years 2017, 2018, 2019, 2020, and 2021; provided, however, any increase in the net liability of an individual casino gaming property resulting from the elimination of the credit allowed under paragraph (5) of this subsection shall not exceed: 25 percent for calendar year 2022; 50 percent for calendar year 2023; and 75 percent for calendar year 2024. Any amount that would be owed by a casino gaming property in excess of the limits applied for calendar years 2022 through 2024 under this paragraph shall be added, by proportional share, and pursuant to the methodology developed by the division, to the payment in lieu of property taxes to be paid by every other casino gaming property.

(7) Notwithstanding the provisions of paragraph (6) of this subsection to the contrary, for an individual casino gaming property with less than 1,000 rooms, the increased net liability of such individual casino gaming property resulting from the elimination of the credit allowed under paragraph (5) of this subsection shall not exceed 50 percent between calendar years 2022 and 2026 with that 50 percent increase phased in at 25 percent for calendar year 2022, 50 percent for calendar year 2023, and 75 percent for calendar year 2024. Any amount that would be owed to such individual casino gaming property in excess of the limits applied for calendar years 2022 through 2026 under this paragraph shall be credited against the obligation of the operator of the property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1).

(8) If the formula set forth in paragraph (4) of this subsection results in any individual casino gaming property not receiving the lower payment that is due that casino gaming property shall still be liable for its proportional share of the payment in lieu of property taxes determined pursuant to paragraph (6) of this

subsection; provided, however, if the liability of the casino gaming property determined pursuant to the formula set forth in paragraph (4) of this subsection does not result in 50 percent of the savings due for 2022, 75 percent of the savings due for 2023, or 100 percent of the savings due for 2024, 2025, and 2026, that property shall be allowed a credit against the obligation of the operator of that property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) in an amount that will result in the savings of the individual casino gaming property equaling 50 percent for 2022, 75 percent for 2023, and 100 percent for 2024, 2025, and 2026. The total credits allowed against the obligation of the operator of a casino gaming property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) for all casino gaming properties in this category shall be distributed on a pro rata basis based upon the calculated payment in lieu of property taxes payment obligation.

(9) Notwithstanding the provisions of paragraph (6) of this subsection to the contrary, for an individual casino gaming property with more than 1,000 rooms, the increased net liability of such individual casino gaming property resulting from the elimination of the credit allowed under paragraph (5) of this subsection shall be no more than 90 percent, which shall be achieved by providing a credit against the obligation of the operator of a casino gaming property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) equivalent to 65 percent of the dollar value increase in that property's payment in lieu of property tax obligation each year, or such percentage in any year that limits the increase to 90 percent.

(10) The calculations in paragraphs (6) through (9) of this subsection shall be performed before the application of the two percent annual increase required under subparagraph (f) of paragraph (3) of this subsection. Thus, the final payment in lieu tax obligation and any credit against the obligation of the operator of a casino gaming property under paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) shall incorporate the two percent annual increase pursuant to the methodology developed by the division.

d. If a new casino gaming property becomes subject to the provisions of this subsection, then the new casino gaming property shall enter a financial agreement with Atlantic City to set its payment in lieu of taxes. A new casino gaming property shall pay its regular and conventional tax obligation as billed for the remainder of the calendar year in which it first qualifies as a casino gaming property. If an existing casino gaming property ceases to qualify as a casino gaming property, then the total amount of the payment in lieu of property taxes owed to Atlantic City pursuant to subparagraphs (e) through (h) of paragraph (3) of subsection c. of this section shall be decreased in the calendar year following the year in which the existing casino gaming

property ceases to qualify as a casino gaming property by the payment in lieu of property taxes allocated to such casino gaming property pursuant to paragraph (4) of subsection c. of this section in the year in which such casino gaming property ceases to qualify as a casino gaming property. Any decrease to the total amount of the payment in lieu of taxes owed to Atlantic City precipitated by a casino gaming property no longer qualifying as a casino gaming property shall not take effect until the calendar year following the calendar year in which such casino gaming property ceases to qualify as a casino gaming property.

The payment in lieu of property taxes owed by a casino gaming property pursuant to this section shall be adjusted in each subsequent calendar year to reflect when any existing casino gaming properties no longer qualify as casino gaming properties.

e. The provisions of R.S.54:5-6 shall apply to any amount required to be paid under this section, and the municipality shall have the same rights against any casino gaming property for such unpaid amounts relating to that property as if such amounts were unpaid property taxes.

4. Section 4 of P.L.2016, c.5 (C.52:27BBBB-21) is amended to read as follows:

C.52:27BBBB-21 Additional payments required.

4. a. In addition to the amounts required to be remitted under section 3 of P.L.2016, c.5 (C.52:27BBBB-20), the owner of each casino gaming property shall make a separate payment to the State, where the aggregate amount of these payments paid by the casino gaming properties shall be equal to the following: (1) $30,000,000 for calendar year 2015; (2) $30,000,000 for calendar year 2016; (3) $15,000,000 for calendar year 2017; (4) $10,000,000 for calendar year 2018; and (5) $5,000,000 per year for calendar years 2019 through 2026.

b. The Local Finance Board, in consultation with the division, shall determine the amount owed for each casino gaming property based on the proportion of gross gaming revenue of the casino in casino gaming property in the prior year. The owner of each casino gaming property where a casino is operated during the year in which the payments required by this section are due shall remit its payment to the State no later than June 1 of each year. The Local Finance Board shall provide the owner of each casino gaming property required to make a payment under this section with written notice of the amount of the payment for each casino gaming property, and instructions for how each payment shall be made. Each owner of a casino gaming property required to make a payment under this section shall remit its payment within

five business days of receipt of the written notice from the Local Finance Board.

c. The funds comprised of the payments collected under this section shall be remitted from the State to Atlantic City, which, for purposes of preparing annual budgets pursuant to the "Local Budget Law," N.J.S.40A:4-1 et seq., must be applied to the Atlantic City budget for the calendar year for which funds are provided as identified in subsection a. of this section and to no other Atlantic City calendar year budget.

5. Section 5 of P.L.2016, c.5 (C.52:27BBBB-22) is amended to read as follows:

C.52:27BBBB-22 Remitted portion of payment to county and school district.

5. a. Annually, beginning in calendar year 2017 and ending on December 31, 2026, a portion of the payment in lieu of property tax moneys collected pursuant to section 3 of P.L.2016, c.5 (C.52:27BBBB-20) shall be remitted to the county and the school district for their own purposes.

b. Notwithstanding the provisions of any other law to the contrary, for calendar years 2022, 2023, 2024, 2025, and 2026, a portion of the funds collected by Atlantic City from the payment in lieu of property taxes pursuant to section 3 of P.L.2016, c.5 (C.52:27BBBB-20), shall be allocated as follows:

beginning in calendar year 2022, the portion of the payment in lieu of property taxes collected pursuant to section 3 of P.L.2016, c.5 (C.52:27BBBB-20) that is allocated to Atlantic County shall be the same as 2021, with the allocation in each year thereafter increasing by two percent from the preceding year; provided, however, in the case of an upward adjustment pursuant to subparagraph (h) of paragraph (3) of subsection c. of section 3 of P.L.2016, c.5 (C.52:27BBBB-20) in calendar year 2023 or 2024, the portion of the payment in lieu of property taxes allocated to Atlantic County shall be increased by $1,350,000 in the year of the upward adjustment and shall thereafter increase by two percent from the preceding year, and in the case of an upward adjustment that occurs in calendar year 2025 or 2026, the portion of the payment in lieu of property taxes allocated to Atlantic County shall be increased by $1,200,000 in the year of the upward adjustment and shall thereafter increase by two percent from the preceding year; and provided further that in the case of a downward adjustment pursuant to subparagraph (h) of paragraph (3) of subsection c. of section 3 of P.L.2016, c.5 (C.52:27BBBB-20) in calendar year 2023 or 2024, the portion of the payment in lieu of property taxes allocated to Atlantic County shall be decreased by $1,350,000 in the year of a downward adjustment and shall thereafter increase by two percent from the preceding year and in the case of a

downward adjustment that occurs in calendar year 2025 or 2026 the portion of the payment in lieu of property taxes allocated to Atlantic County shall be decreased by $1,200,000 in the year of the downward adjustment and shall thereafter increase by two percent from the preceding year.

c. Notwithstanding the provisions of any other law to the contrary, beginning in calendar year 2022, the portion of the payment in lieu of property taxes collected pursuant to section 3 of P.L.2016, c.5 (C.52:27BBBB-20) that is allocated to the Atlantic City School District shall be the same as 2021, with the allocation in each year thereafter increasing by two percent from the preceding year; provided, however, in the case of an upward adjustment pursuant to subparagraph (h) of paragraph (3) of subsection c. of section 3 of P.L.2016, c.5 (C.52:27BBBB-20), the portion of the payment in lieu of property taxes allocated to the Atlantic City School District shall be increased by $3,500,000 in the year of the upward adjustment and shall thereafter increase by two percent from the preceding year; and provided further that in the case of a downward adjustment pursuant to subparagraph (h) of paragraph (3) of subsection c. of section 3 of P.L.2016, c.5 (C.52:27BBBB-20), the portion of the payment in lieu of property taxes allocated to the Atlantic City School District shall be decreased by $3,500,000 in the year of a downward adjustment and shall thereafter increase by two percent from the preceding year.

6. Section 9 of P.L.2016, c.5 (C.52:27BBBB-25) is amended to read as follows:

C.52:27BBBB-25 Allocation of certain moneys to Atlantic City.

9. a. Notwithstanding the provisions of section 3 of P.L.1984, c.218 (C.5:12-144.1) or any other law to the contrary, including subsection k. of section 5 of P.L.2011, c.18 (C.5:12-219), for calendar years 2018, 2019, 2020, and 2021, the moneys received after the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.), by the State Treasurer derived from the payment of the investment alternative tax in the amount specified in paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) and the investment alternative in the amount as specified in section 17 of P.L.2013, c.27 (C.5:12-95.19), except for any amount thereof pledged for the payment of bonds issued by the Casino Reinvestment Development Authority or otherwise contractually obligated by the authority prior to the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.), or any bonds issued to refund such bonds, shall be allocated to Atlantic City for the purposes of paying debt

service on bonds issued by Atlantic City prior to and after the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.).

b. Notwithstanding the provisions of section 3 of P.L.1984, c.218 (C.5:12-144.1) or any other law to the contrary, including subsection k. of section 5 of P.L.2011, c.18 (C.5:12-219), for each calendar year from 2022 through 2026, of the moneys received by the State Treasurer derived from the payment of the investment alternative tax in the amount specified in paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) and the investment alternative in the amount as specified in section 17 of P.L.2013, c.27 (C.5:12-95.19), except for any amount thereof pledged for the payment of bonds issued by the Casino Reinvestment Development Authority or otherwise contractually obligated by the authority prior to the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.), or any bonds issued to refund such bonds, shall be allocated first to Atlantic City for the purposes of paying debt service during each such calendar year on bonds issued by Atlantic City prior to and after the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.). In the event that the moneys received by the State Treasurer from the payment of the investment alternative tax, in the amounts identified in this section, exceed the debt service on bonds issued by Atlantic City prior to and after the effective date of P.L.2016, c.5 (C.52:27BBBB-18 et al.) in any year, then the amount in excess of the debt service shall be allocated as follows:

(1) for calendar year 2022, such residual moneys shall be allocated 20 percent to the Casino Reinvestment Development Authority, 15 percent to the Clean and Safe Fund established pursuant to section 7 of P.L.2021, c.315 (C.52:27BBBB-27), 15 percent to the Infrastructure Fund established pursuant to section 8 of P.L.2021, c.315 (C.52:27BBBB-28), and 50 percent of such residual moneys shall be allocated for use by Atlantic City for general municipal purposes;

(2) for calendar year 2023, 20 percent of such residual moneys shall be allocated to the Casino Reinvestment Development Authority, 12 percent of such residual moneys shall be allocated to the Clean and Safe Fund, 12 percent of such residual moneys shall be allocated to the Infrastructure Fund, and 56 percent of such residual moneys shall be allocated for use by Atlantic City for general municipal purposes;

(3) for calendar year 2024, 15 percent of such residual moneys shall be allocated to the Casino Reinvestment Development Authority, 11.5 percent of such residual moneys shall be allocated to the Clean and Safe Fund, 11.5 percent of such residual moneys shall be allocated to the Infrastructure Fund,

and 62 percent of such residual moneys shall be allocated for use by Atlantic City for general municipal purposes;

(4) for calendar year 2025, 15 percent of such residual moneys shall be allocated to the Casino Reinvestment Development Authority, 11.5 percent of such residual moneys shall be allocated to the Clean and Safe Fund, 11.5 percent of such residual moneys shall be allocated to the Infrastructure Fund, and 62 percent of such residual moneys shall be allocated for use by Atlantic City for general municipal purposes; and

(5) for calendar year 2026, 10 percent of such residual moneys shall be allocated to the Casino Reinvestment Development Authority, 11.5 percent of such residual moneys shall be allocated to the Clean and Safe Fund, 11.5 percent of such residual moneys shall be allocated to the Infrastructure Fund, and 67 percent of such residual moneys shall be allocated for use by Atlantic City for general municipal purposes.

c. If, in any year, the aggregate amount allocated to Atlantic City for municipal purposes pursuant to subsection b. of this section results in an amount that is less than 2.5 percent higher than the amount for municipal purposes in the prior year, the distributions to the Casino Reinvestment Development Authority, the Clean and Safe Fund, and Infrastructure Fund shall be reduced in equal amounts and allocated to Atlantic City for municipal purposes to meet a 2.5 percent growth target.

d. If, in any year, the amount allocated to the Casino Reinvestment Development Authority, the Clean and Safe Fund, and the Infrastructure Fund pursuant to subsection b. of this section exceeds the amount set forth in the table below, each casino gaming property shall receive reimbursement from the moneys received by the State Treasurer derived from the payment of the investment alternative tax in the amount specified in paragraph (2) of subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) up to its full obligation under that paragraph on a pro rata basis. Following reimbursement, if there are still excess funds, the amount in excess attributable to each casino will be distributed to the Casino Reinvestment Development Authority and deposited into an account for use in accordance with Article 11 and Article 12 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) governing casino reinvestment and authority operations.

YEAR OF PILOT	**6**	**7**	**8**	**9**	**10**
CALENDAR YEAR	**2022**	**2023**	**2024**	**2025**	**2026**
		(Expressed In Millions)			
CRDA	$2.7	$3.5	$3.2	$4.2	$3.1
INFRASTRUCTURE	$2.0	$2.1	$2.5	$3.2	$3.6
CLEAN AND SAFE	$2.0	$2.1	$2.5	$3.2	$3.6

CITY GENERAL FUND (Non-debt service)	$6.8	$9.8	$13.3	$17.5	$20.8
TOTAL	**$13.5**	**$17.5**	**$21.5**	**$28.1**	**$31.1**

e. The provisions of this section shall expire on December 31, 2026.

C.52:27BBBB-27 Clean and Safe Fund, established.

7. a. There is established the Clean and Safe Fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under subsection b. of section 9 of P.L.2016, c.5 (C.52:27BBBB-25) and any moneys appropriated annually to the fund. The State Treasurer may invest and reinvest any moneys in the fund, or any portion thereof, in legal obligations of the United States or of the State or of any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

b. Moneys in the fund shall be expended by Atlantic City, or another governmental entity working on behalf of Atlantic City, to pay for capital public safety expenses, streetscape improvements, plantings, roadway median improvements, shade trees, beautification, wayfinding, lighting, cleaning equipment, waste receptacles, sidewalk repair, and related maintenance. The governing body of Atlantic City may fund a project authorized under this subsection with moneys deposited in the Clean and Safe Fund subject to approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

c. If Atlantic City is no longer deemed a municipality in need of stabilization and recovery, as defined in section 3 of P.L.2016, c.4 (C.52:27BBBB-3), then Atlantic City shall receive any money in the Clean and Safe Fund and any future dedication to the Clean and Safe Fund pursuant to subsection b. of section 9 of P.L.2016, c.5 (C.52:27BBBB-25) subject to a memorandum of understanding executed with the State Treasurer that restricts the use of such moneys to the purposes authorized under subsection b. of this section.

C.52:27BBBB-28 Infrastructure Fund, established.

8. a. There is established the Infrastructure Fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under subsection b. of section 9 of P.L.2016, c.5 (C.52:27BBBB-25) and any moneys appropriated annually to the fund. The State Treasurer may invest and reinvest any moneys in the fund, or any portion thereof, in legal obligations of the United States or of the State or of

any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

b. Moneys in the fund shall be expended by Atlantic City to pay for any work that may be undertaken as a local improvement pursuant to R.S.40:56-1. The governing body of Atlantic City may fund a local improvement with moneys deposited in the Infrastructure Fund subject to approval of the Commissioner of Community Affairs, in consultation with the Casino Reinvestment Development Authority and other State agencies, as appropriate.

c. If Atlantic City is no longer deemed a municipality in need of stabilization and recovery, as defined in section 3 of P.L.2016, c.4 (C.52:27BBBB-3), then Atlantic City shall receive any money in the Infrastructure Fund and any future dedication to the Infrastructure Fund pursuant to subsection b. of section 9 of P.L.2016, c.5 (C.52:27BBBB-25) subject to a memorandum of understanding executed with the State Treasurer that restricts the use of such moneys to works that may be undertaken as a local improvement pursuant to R.S.40:56-1.

9. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 316

AN ACT concerning the expenditure of funds by the New Jersey Infrastructure Bank to finance a portion of the cost of certain environmental infrastructure projects, and amending P.L.2021, c.204.

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

1. Section 1 of P.L.2021, c.204 is amended to read as follows:

1. a. The New Jersey Infrastructure Bank, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) (hereinafter referred to as "the trust"), is authorized to expend the aggregate sum of up to $1.62 billion and any uncommitted balance of the aggregate expenditures authorized pursuant to section 1 of P.L.2000, c.93, section 1 of P.L.2001, c.224, section 1 of P.L.2002, c.71, section 1 of P.L.2003, c.159, section 1 of P.L.2004, c.110, section 1 of P.L.2005, c.197, section 1 of P.L.2006, c.67, section 1 of

P.L.2007, c.140, section 1 of P.L.2008, c.67, section 1 of P.L.2009, c.101, section 1 of P.L.2010, c.62, section 1 of P.L.2011, c.95, section 1 of P.L.2012, c.38, section 1 of P.L.2013, c.94, section 1 of P.L.2014, c.26, section 1 of P.L.2015, c.107, section 1 of P.L.2016, c.31 as amended by P.L.2017, c.13, section 1 of P.L.2017, c.142 as amended by P.L.2017, c.327, P.L.2018, c.84 as amended by P.L.2019, c.30, section 1 of P.L.2019, c.192 as amended by P.L.2019, c.515, and P.L.2020, c.48, as amended by P.L.2021, c.22, for the purpose of making loans, to the extent sufficient funds are available, to or on behalf of local government units or public water utilities (hereinafter referred to as "project sponsors") to finance all or a portion of the cost of construction of environmental infrastructure projects listed in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316.

b. The trust is authorized to increase the aggregate sums specified in subsection a. of this section by:

(1) the amounts of capitalized interest, administrative expenses associated with any federal funding programs, if applicable, and the bond issuance expenses as provided in subsection b. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 7 of P.L.2021, c.204, by P.L.2021, c.316;

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316;

(5) the amount appropriated to the Department of Environmental Protection for the purpose of making zero interest and principal forgiveness loans pursuant to section 3 of P.L.2021, c.203, as amended by P.L.2021, c.328 in connection with the project costs of a particular project sponsor, to the extent the priority ranking or an insufficiency of funding prevent the department from meeting program demand as provided in subsection f. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316; and

(6) any funds transferred to the trust by the department pursuant to paragraph (21) of subsection a. of section 1 of P.L.2021, c.203, as amended by P.L.2021, c.328.

c. (1) Of the sums made available to the trust from the "Water Supply Trust Fund" established pursuant to subsection a. of section 15 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261), pursuant to P.L.1997, c.223, the trust is authorized to transfer such amounts to the Department of

Environmental Protection as needed for drinking water project loans pursuant to the "Safe Drinking Water Act Amendments of 1996," Pub.L.104-182, and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Safe Drinking Water Act"), under terms and conditions established by the Commissioner of Environmental Protection and the trust, and approved by the State Treasurer, which loans shall be jointly administered by the trust and department.

(2) Of the sums appropriated to the trust from the "Wastewater Treatment Trust Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329), pursuant to P.L.1987, c.198, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund established pursuant to section 1 of P.L.2009, c.77 for the purposes of issuing loans or providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the "Water Quality Act of 1987" (33 U.S.C. s.1251 et seq.), and any amendatory and supplementary acts thereto (hereinafter referred to as the "Federal Clean Water Act").

(3) Of the sums appropriated to the trust from the "1992 Wastewater Treatment Trust Fund" established pursuant to section 27 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992" (P.L.1992, c.88), pursuant to P.L.1996, c.86, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(4) Of the sums appropriated to the trust from the "Stormwater Management and Combined Sewer Overflow Abatement Fund" created pursuant to section 14 of the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, pursuant to P.L.1998, c.87, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(5) Of the sums appropriated to the trust from the "2003 Water Resources and Wastewater Treatment Trust Fund" established pursuant to subsection b. of section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), pursuant to P.L.2004, c.110, the trust is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund for the purpose of providing the State

match as required for the award of capitalization grants made available to the State for clean water projects pursuant to the Federal Clean Water Act.

(6) Of the sums appropriated to the trust from repayments of loans deposited in any account, including the "Clean Water State Revolving Fund," "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund" or the Drinking Water State Revolving Fund, as appropriate, pursuant to sections 11 and 12 of P.L.1995, c.219, sections 11 and 12 of P.L.1996, c.85, sections 11 and 12 of P.L.1997, c.221, sections 12 and 13 of P.L.1998, c.84, section 11 of P.L.1999, c.174, section 11 of P.L.2000, c.92, section 11 of P.L.2001, c.222, section 11 of P.L.2002, c.70, section 11 of P.L.2003, c.158, section 11 of P.L.2004, c.109, section 11 of P.L.2005, c.196, section 11 of P.L.2006, c.68, section 10 of P.L.2007, c.140, section 10 of P.L.2008, c.67, section 10 of P.L.2009, c.101, section 10 of P.L.2010, c.62, section 10 of P.L.2011, c.95, section 10 of P.L.2012, c.38, section 10 of P.L.2013, c.94, section 10 of P.L.2014, c.26, section 10 of P.L.2015, c.107, section 10 of P.L.2016, c.31, section 10 of P.L.2017, c.142 as amended by section 10 of P.L.2017, c.327, section 10 of P.L.2018, c.84 as amended by P.L.2019, c.30, section 10 of P.L.2019, c.192 as amended by section 10 of P.L.2019, c.515, section 10 of P.L.2020, c.48, as amended by P.L.2021, c.22, and section 10 of P.L.2021, c.204, as amended by P.L.2021, c.316, for deposit into one or more reserve funds or accounts established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11), the trust shall transfer to the respective fund of origin the uncommitted balance of all such moneys no longer utilized by the trust for such purposes.

d. For the purposes of P.L.2021, c.204, as amended by P.L.2021, c.316:

(1) "capitalized interest" means the amount equal to interest paid on trust bonds which is funded with trust bond proceeds and the earnings thereon;

(2) "debt service reserve fund expenses" means the debt service reserve fund costs associated with reserve capacity expenses, water supply projects for which the project sponsors are public water utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9), other drinking water projects not eligible for, or interested in, State or federal debt service reserve funds pursuant to the "Water Supply Bond Act of 1981," P.L.1981, c.261 as amended and supplemented by P.L.1997, c.223, and any clean water projects not eligible for, or interested in, State or federal debt service reserve funds from the Clean Water State Revolving Fund;

(3) "issuance expenses" means any costs related to the issuance of trust bonds and includes, but is not limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement,

underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents.

(4) "loan origination fee" means the fee charged by the Department of Environmental Protection and financed under the trust loan to pay a portion of the costs incurred by the department in the implementation of the New Jersey Environmental Infrastructure Financing Program; and

(5) "reserve capacity expenses" means those project costs for reserve capacity not eligible for loans under rules and regulations governing zero interest loans adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329 but which are eligible for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

e. The trust is authorized to increase the loan amount in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013, c.94, P.L.2014, c.26, P.L.2015, c.107, P.L.2016, c.31 as amended by P.L.2017, c.13, P.L.2017, c.142 as amended by P.L.2017, c.327, P.L.2018, c.84 as amended by P.L.2019, c.30, P.L.2019, c.192 as amended by P.L.2019, c.515, P.L.2020, c.48, as amended by P.L.2021, c.22, and P.L.2021, c.204, as amended by P.L.2021, c.316.

2. Section 2 of P.L.2021, c.204 is amended to read as follows:

2. a. (1) The New Jersey Infrastructure Bank is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following clean water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Camden County MUA	S340640-18R	$7,500,000	$10,000,000
Elizabeth City	S340942-19R	$206,250	$275,000
Hoboken City	S340635-06R	$30,000,000	$40,000,000
North Bergen MUA	S340652-14R	$3,750,000	$5,000,000
Ocean Twp. SA	S340750-14R	$750,000	$1,000,000
Plumsted Twp.	S340607-03R	$7,500,000	$10,000,000
Rockaway Valley RSA	S340821-07R	$2,250,000	$3,000,000

Franklin Twp. SA	S340839-06-1	$750,000	$1,000,000
Paterson City	S340850-03-1	$1,912,500	$2,550,000
Rockaway Valley RSA	S340821-06-1	$581,250	$775,000
Warren Twp. SA	S340964-05R	$3,750,000	$5,000,000
Somerville Borough	S342013-01-1	$1,387,500	$1,850,000
Total Projects: 12		**$60,337,500**	**$80,450,000**

(2) A loan authorized by this subsection shall be made for the difference between the allowable loan amount required by the project based upon final building costs pursuant to subsection a. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, and the loan amount certified by the chairperson, vice chairperson, or secretary of the trust in State fiscal years 2008, 2019, and 2020 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). A loan authorized by this subsection shall be made to or on behalf of the project sponsor listed, up to the individual amount indicated and in the priority stated, to the extent sufficient funds are available, except if a project fails to meet the requirements of section 6 of P.L.2021, c.204, as amended by P.L.2021, c.316.

(3) The loans for projects authorized by this subsection shall have priority over the environmental infrastructure projects listed in subsection a. of section 4 of P.L.2021, c.204, as amended by P.L.2021, c.316.

b. (1) The trust is authorized to expend funds for the purpose of making supplemental loans to or on behalf of the project sponsors listed below for the following drinking water environmental infrastructure projects:

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Newark City	0714001-016R	$2,250,000	$3,000,000
North Jersey District Water Supply Comm.	1613001-025R	$19,125,000	$25,500,000
Total Projects: 2		**$21,375,000**	**$28,500,000**

(2) A loan authorized by this subsection shall be made for the difference between the allowable loan amount required by the project based upon final building costs pursuant to subsection a. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, and the loan amount certified by the chairperson, vice chairperson, or secretary of the trust in State fiscal year 2021 and for increased allowable costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). A loan authorized by this subsection shall be made to or on behalf of the project sponsor listed, up to

the individual amount indicated and in the priority stated, to the extent sufficient funds are available, except if a project fails to meet the requirements of section 6 of P.L.2021, c.204, as amended by P.L.2021, c.316.

(3) The loans for projects authorized by this subsection shall have priority over environmental infrastructure projects listed in subsection b. of section 4 of P.L.2021, c.204, as amended by P.L.2021, c.316.

c. The trust is authorized to adjust the allowable trust loan amount for the projects authorized in this section to between zero percent and 100 percent of the total allowable loan amount.

3. Section 3 of P.L.2021, c.204 is amended to read as follows:

3. a. The New Jersey Infrastructure Bank is authorized to make loans to or on behalf of the project sponsors for the clean water projects listed in subsection a. of section 2 and subsection a. of section 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the trust pursuant to subsection a. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, or if a project fails to meet the requirements of section 6 of P.L.2021, c.204, as amended by P.L.2021, c.316. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e., or f. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, or pursuant to section 8 of P.L.2021, c.204, as amended by P.L.2021, c.316.

b. The trust is authorized to make loans to project sponsors for the drinking water projects listed in subsection b. of section 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the trust pursuant to subsection a. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, or if a project fails to meet the requirements of section 6 of P.L.2021, c.204, as amended by P.L.2021, c.316. The trust is authorized to increase any such amount pursuant to subsection b., c., d., e., or f. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, or pursuant to section 8 of P.L.2021, c.204, as amended by P.L.2021, c.316.

c. The trust is authorized to make loans to local government units for clean water projects partially funded from the "Pinelands Infrastructure Trust Fund" established pursuant to section 14 of P.L.1985, c.302 for the balance of allowable project costs up to the individual amounts indicated, provided that any such amount may be reduced by the trust pursuant to subsection a. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316 , or if a project fails to meet the requirements of section 6 of P.L.2021, c.204, as amended by P.L.2021, c.316.

The following local government units are eligible for funding from the "Pinelands Infrastructure Trust Fund" and for loans from the trust in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) for the following clean water projects:

Project Sponsor	**Project Number**	**Estimated Total Loan Amount**
Pemberton Twp.	Pinelands 1	$2,929,000
Manchester Twp./ Jackson MUA	Pinelands 2	$7,192,035
Galloway Twp.	Pinelands 4	$3,493,440
Winslow Twp.	Pinelands 5	$1,728,940
Total Pinelands Projects: 4		**$15,343,415**

4. Section 4 of P.L.2021, c.204 is amended to read as follows:

4. a. The following environmental infrastructure projects shall be known and may be cited as the "Storm Sandy and State Fiscal Year 2022 Clean Water Project Eligibility List":

Project Sponsor	**Project Number**	**Estimated Allowable DEP Loan Amount**	**Estimated Total Loan Amount**
Musconetcong SA	S340384-09	$4,500,000	$6,000,000
Camden County MUA	S340640-20	$2,250,000	$3,000,000
Newark City	S340815-28	$4,500,000	$6,000,000
Newark City	S340815-24	$17,250,000	$23,000,000
Hopatcong Borough	S340488-08	$450,000	$600,000
Jersey City MUA	S340928-24	$81,000,000	$108,000,000
Elizabeth City	S340942-17	$4,875,000	$6,500,000
Camden County MUA MUA	S340640-13	$9,600,000	$12,800,000
Bayonne City	S340399-31	$3,750,000	$5,000,000
Ocean County UA	S340372-62	$3,225,000	$4,300,000
Ocean County UA	S340372-63	$1,650,000	$2,200,000
Ocean County UA	S340372-61	$3,975,000	$5,300,000
Hoboken City	S340635-09	$375,000	$500,000
Mount Laurel Twp. MUA	S340943-06	$6,000,000	$8,000,000
Jersey City	S340928-30	$2,033,250	$2,711,000
North Hudson SA	S340952-30	$17,400,000	$23,200,000
Riverside SA	S340490-01	$630,000	$840,000
Perth Amboy City	S340435-14	$1,956,000	$2,608,000
Hackensack City	S340923-14	$6,000,000	$8,000,000
Somerset Raritan Valley SA	S340801-09	$4,875,000	$6,500,000
Passaic Valley SC	S340689-37	$91,125,000	$121,500,000

Passaic Valley SC	S345200-01	$7,125,000	$9,500,000
Bergen County UA	S340386-21	$5,700,000	$7,600,000
Northwest Bergen County UA	S340700-18	$1,500,000	$2,000,000
Linden Roselle SA	S340299-08	$20,250,000	$27,000,000
Clinton Town	S340924-08	$3,075,000	$4,100,000
Gloucester County UA	S340902-15	$8,625,000	$11,500,000
Stafford Twp.	S344100-03	$4,200,000	$5,600,000
Allentown Borough	S340567-05	$3,825,000	$5,100,000
Stony Brook RSA	S340400-11	$16,500,000	$22,000,000
Evesham MUA	S340838-09	$375,000	$500,000
Howell Twp.	S344040-02	$11,010,000	$14,680,000
Rutgers, The State University of New Jersey	S340500-01	$27,750,000	$37,000,000
Willingboro MUA	S340132-09	$6,750,000	$9,000,000
Ocean County	S344080-10	$187,500	$250,000
Ocean County	S344080-11	$262,500	$350,000
Rockaway Valley RSA	S340821-08	$11,625,000	$15,500,000
Ocean County	S344080-09	$975,000	$1,300,000
Chatham Borough	S340715-07A	$5,466,885	$7,289,180
Madison Borough	S340715-07B	$5,466,885	$7,289,180
Wildwood City	S340664-06	$11,784,758	$15,713,010
New Jersey Water Supply Authority	S340421-02	$64,575,000	$86,100,000
Long Branch SA	S340336-09	$4,200,000	$5,600,000
Stafford Twp.	S340946-07	$3,750,000	$5,000,000
Manasquan River RSA	S340911-03	$495,000	$660,000
Delran Twp.	S340794-10	$1,575,000	$2,100,000
Monmouth County Bayshore Outfall Authority	S340325-04	$2,625,000	$3,500,000
Camden County MUA	S340640-28	$5,625,000	$7,500,000
Warren Twp. SA	S340964-05	$3,750,000	$5,000,000
Atlantic County UA	S340809-29	$3,000,000	$4,000,000
Lambertville MUA	S340882-09	$1,350,000	$1,800,000
Atlantic County UA	S340809-30	$7,575,000	$10,100,000
Lambertville MUA	S340882-10	$525,000	$700,000
Toms River MUA	S340145-05	$3,375,000	$4,500,000
Toms River MUA	S340145-08	$1,018,800	$1,358,400
Two Rivers Water Reclamation Authority	S340117-09	$3,150,000	$4,200,000
Brick Twp. MUA	S340448-11	$4,275,000	$5,700,000
Paulsboro Borough	S340164-01	$2,062,500	$2,750,000
Northwest Bergen County UA	S340700-15	$5,250,000	$7,000,000
Northwest Bergen County UA	S340700-19	$6,099,338	$8,132,450

Franklin Twp. SA	S340839-09	$5,625,000	$7,500,000
Franklin Twp. SA	S340839-08	$3,150,000	$4,200,000
Mount Laurel Twp. MUA	S340943-07	$2,400,000	$3,200,000
Winslow Twp.	S340895-10	$1,275,000	$1,700,000
Ocean Twp. SA	S340750-13	$412,500	$550,000
Scotch Plains Twp.	S340512-01	$2,025,000	$2,700,000
Carteret Borough	S340939-10	$4,950,000	$6,600,000
Burlington Twp.	S340712-17	$750,000	$1,000,000
Somerset Raritan Valley SA	S340801-07	$25,500,000	$34,000,000
Princeton	S340656-11	$2,944,259	$3,925,678
Middlesex Borough	S340698-02	$1,926,563	$2,568,750
Pennsville SA	S340870-04	$1,200,000	$1,600,000
Red Bank Borough	S340528-01	$3,375,000	$4,500,000
Glen Ridge Borough	S340861-03	$334,387	$445,849
Buena Borough MUA	S340518-06	$973,500	$1,298,000
Long Beach Twp.	S340023-07	$3,450,000	$4,600,000
Ship Bottom Borough	S340311-05	$3,750,000	$5,000,000
Passaic Valley SC	S340689-45	$7,657,577	$10,210,102
Passaic Valley SC	S340689-54	$11,642,883	$15,523,844
Lower Twp. MUA	S340810-05	$22,500,000	$30,000,000
Greenwich Twp.	S340359-02	$1,650,000	$2,200,000
Marlboro Twp.	S340268-02	$723,188	$964,250
Mantua Twp. MUA	S340514-02	$1,687,500	$2,250,000
Newton Town	S340449-04	$403,500	$538,000
Cranford Twp.	S340858-04	$2,625,000	$3,500,000
Northfield City	S340508-02	$112,500	$150,000
Spotswood Borough	S340510-01	$4,070,250	$5,427,000
North Hudson SA	S340952-36	$675,000	$900,000
Clinton Town	S340924-07	$600,000	$800,000
Kearny Town	S340259-12	$16,125,000	$21,500,000
Jersey City MUA	S340928-32	$9,225,000	$12,300,000
Atlantic City MUA	S340439-04	$2,300,000	$3,066,667
Jersey City MUA	S340928-33	$6,750,000	$9,000,000
East Orange City	S340843-03	$12,000,000	$16,000,000
Burlington City	S340140-02	$1,950,000	$2,600,000
Raritan Twp. MUA	S340485-12	$3,675,000	$4,900,000
Bloomfield Twp.	S340516-01	$5,423,228	$7,230,970
Northwest Bergen County UA	S340700-16	$3,675,000	$4,900,000
University Hospital	S340500-03	$5,850,000	$7,800,000
Ship Bottom Borough	S340311-04	$2,062,500	$2,750,000
Total Projects: 100		**$731,572,751**	**$975,430,300**

b. The following environmental infrastructure projects shall be known and may be cited as the "Storm Sandy and State Fiscal Year 2022 Drinking Water Project Eligibility List":

Project Sponsor	Project Number	Estimated Allowable Trust Loan Amount	Estimated Total Loan Amount
NJ American Water Co., Inc.	2004002-012	$15,000,000	$20,000,000
East Windsor MUA	1101002-005	$1,500,000	$2,000,000
South Orange Village	0719001-012	$600,000	$800,000
Old Bridge MUA	1209002-005	$2,025,000	$2,700,000
NJ American Water Co., Inc.	2004002-013	$12,000,000	$16,000,000
Jersey City MUA	0906001-021	$8,250,000	$11,000,000
Lakeshore Co.	1413001-001	$375,000	$500,000
Hoboken City	0905001-002	$6,000,000	$8,000,000
Glen Ridge Borough	0708001-008	$1,929,908	$2,573,210
Brielle Borough	1308001-004	$1,845,000	$2,460,000
Moorestown Twp.	0322001-002	$11,430,000	$15,240,000
Woodbine Borough	0516001-001	$3,750,000	$5,000,000
Woodland Heights Homeowners Association	1615022-001	$420,000	$560,000
Jersey City MUA	0906001-020	$4,965,000	$6,620,000
Newark City	0714001-018	$3,862,500	$5,150,000
Lakehurst Borough	1513001-002	$900,000	$1,200,000
Orange City	0717001-014	$1,500,000	$2,000,000
Jersey City MUA	0906001-009	$3,750,000	$5,000,000
Brielle Borough	1308001-005	$3,375,000	$4,500,000
Middlesex Water Co.	1225001-025	$42,750,000	$57,000,000
Hardyston MUA	1911006-003	$75,000	$100,000
Jersey City MUA	0906001-025	$24,000,000	$32,000,000
Hopatcong Borough	1912001-004	$75,000	$100,000
Jersey City MUA	0906001-015	$2,691,950	$3,589,266
Spotswood Borough	1224001-001	$2,582,936	$3,443,914
Trenton City	1111001-011	$15,255,000	$20,340,000
Wildwood City	0514001-006	$4,637,403	$6,183,204
Hamburg Borough	1909001-001	$63,750	$85,000
National Park Borough	0812001-005	$1,144,875	$1,526,500
NJ American Water Co., Inc.	1345001-021	$19,758,750	$26,345,000
Moorestown Twp.	0322001-001	$18,468,750	$24,625,000
National Park Borough	0812001-004	$1,275,000	$1,700,000
Highbridge Borough	1014001-001	$75,000	$100,000
Newark City	0714001-008	$25,647,000	$34,196,000
Farmingdale Borough	1314001-002	$680,250	$907,000

Brick Twp. MUA	1506001-011	$15,667,500	$20,890,000
Brick Twp. MUA	1506001-009	$4,446,570	$5,928,760
Clinton Town	1005001-012	$2,625,000	$3,500,000
Ship Bottom Borough	1528001-003	$7,500,000	$10,000,000
Ship Bottom Borough	1528001-004	$3,075,000	$4,100,000
Jersey City MUA	0906001-018	$7,500,000	$10,000,000
Jersey City MUA	0906001-017	$1,305,180	$1,740,240
NJ American Water Co., Inc.	1345001-017	$7,575,000	$10,100,000
Hamburg Borough	1909001-002	$825,000	$1,100,000
East Orange City	0705001-014	$24,750,000	$33,000,000
Newark City	0714001-022	$17,250,000	$23,000,000
Allentown Borough	1302001-002	$411,825	$549,100
Jersey City MUA	0906001-019	$5,025,000	$6,700,000
Clinton Town	1005001-013	$2,250,000	$3,000,000
Paulsboro Borough	0814001-003	$2,250,000	$3,000,000
Milltown Borough	1212001-005	$1,350,000	$1,800,000
Newark City	0714001-019	$9,375,000	$12,500,000
Mount Arlington Borough	1426005-001	$165,836	$250,285
Newark City	0714001-020	$13,125,000	$17,500,000
Orange City	0717001-013	$525,000	$700,000
Seaside Park Borough	1527001-004	$1,125,000	$1,500,000
Roosevelt Borough	1341001-007	$450,000	$600,000
Hampton Borough	1013001-001	$1,650,000	$2,200,000
Middlesex Water Co.	1225001-028	$8,400,000	$11,200,000
Long Beach Twp.	1517001-015	$3,119,401	$4,159,201
Bloomfield Twp.	0702001-003	$823,796	$1,098,395
Hightstown Borough	1104001-010	$1,331,759	$1,775,678
East Greenwich	0803001-004	$1,950,000	$2,600,000
Clinton Town	1005001-010	$1,320,000	$2,640,000
Total Projects: 64		**$389,824,939**	**$520,675,753**

c. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between zero percent and 100 percent of the total allowable loan amount. If the trust loan amount is adjusted to 100 percent of the total allowable loan amount, the loan shall be provided pursuant to the terms and conditions of the financing program year in which the construction loan component of the project was certified by the department and in which the trust issued an interim financing program loan or, in the absence of an interim financing program loan, the terms and conditions of the State fiscal year 2022 financing program.

5. Section 5 of P.L.2021, c.204 is amended to read as follows:

5. In accordance with and subject to the provisions of sections 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23), and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects listed in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, which are not expended for that purpose may be applied for the payment of all or any part of the principal of, or interest and premium on, the trust bonds whether due at stated maturity, the interest payment dates, or earlier upon redemption. A portion of the proceeds from bonds issued by the trust to make loans for priority environmental infrastructure projects pursuant to P.L.2021, c.204, as amended by P.L.2021, c.316, may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses for the payment of the loan origination fees; and for the payment of increased costs, as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

6. Section 6 of P.L.2021, c.204 is amended to read as follows:

6. Any loan made by the New Jersey Infrastructure Bank pursuant to P.L.2021, c.204, as amended by P.L.2021, c.316, shall be subject to the following requirements:

a. The chairperson, vice chairperson, or secretary of the trust has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225, P.L.1999, c.175 or P.L.2003, c.162, and any amendatory and supplementary acts thereto, and any rules and regulations adopted pursuant thereto, as applicable. In making this certification, the chairperson, vice chairperson, or secretary may conclusively rely on the project review conducted by the Department of Environmental Protection without any independent review thereof by the trust;

b. The loan shall be conditioned upon inclusion of the project on a project eligibility list approved pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or section 24 of P.L.1997, c.224 (C.58:11B-20.1);

c. The loan shall be repaid within a period not to exceed 30 years, or 35 years for loans funded pursuant to the federal "Water Infrastructure Finance and Innovation Act of 2014," 33 U.S.C. s.3901 et seq., as amended and supplemented, or 45 years for combined sewer overflow abatement projects, of the making of the loan;

d. The loan, including any portion thereof made by the trust pursuant to subsection f. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest, administrative expenses associated with federal funding programs, if applicable, and issuance expenses as provided in subsection b. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, interest earned on project costs as provided in subsection d. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, the amounts of the loan origination fee as provided in subsection e. of section 7 of P.L.2021, c.204, as amended by P.L.2021, c.316, refunding increases as provided in section 8 of P.L.2021, c.204, as amended by P.L.2021, c.316, and increased costs as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27);

e. The loan shall bear interest, exclusive of any late charges or administrative fees payable to the trust pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving trust loans, at or below the interest rate paid by the trust on the bonds issued to make or refund the loans authorized by P.L.2021, c.204, as amended by P.L.2021, c.316, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1); and

f. The loan shall be subject to all other terms and conditions as the trust shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, and with the financial plan required by section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).

g. Notwithstanding any provision of P.L.2021, c.204, as amended by P.L.2021, c.316, or a financial plan of the trust for State fiscal years 2018 through 2021 developed pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21) or section 25 of P.L.1997, c.224 (C.58:11B-21.1) to the contrary, a loan for an environmental infrastructure project listed in section 2 or 3 of P.L.2021, c.204, as amended by P.L.2021, c.316, that is partially funded from the proceeds of bonds issued by the trust to the United States Environmental Protection Agency pursuant to the federal "Water Infrastructure Finance and Innovation Act of 2014," 33 U.S.C. s.3901 et seq.,

shall be subject to terms and conditions regulating the blending of federal and other funds that are consistent with those provisions of Section III of the applicable financial plan of the trust for State fiscal year 2021 that reference the federal "Water Infrastructure Finance and Innovation Act of 2014."

h. The eligibility lists and authorization for the making of loans pursuant to P.L.2021, c.204, as amended by P.L.2021, c.316, shall expire on July 1, 2022, and any project sponsor which has not executed and delivered a loan agreement with the trust for a loan authorized in P.L.2021, c.204, as amended by P.L.2021, c.316, shall no longer be entitled to that loan.

7. Section 7 of P.L.2021, c.204 is amended to read as follows:

7. a. The New Jersey Infrastructure Bank is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, based upon final building costs defined in and determined in accordance with rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by the Commissioner of Environmental Protection pursuant to section 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11) or section 5 of P.L.1981, c.261. The trust is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

b. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, by the amount of capitalized interest, issuance expenses, and administrative expenses associated with federal funding programs, if applicable, allocable to each loan made by the trust pursuant to P.L.2021, c.204, as amended by P.L.2021, c.316.

c. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with the costs identified in paragraphs (3) and (4) of subsection d. of section 1 of P.L.2021, c.204, as amended by P.L.2021, c.316.

d. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, by the loan origination fee.

f. The trust is authorized to increase each loan amount authorized in sections 2 and 4 of P.L.2021, c.204, as amended by P.L.2021, c.316, by the amount appropriated to the Department of Environmental Protection for the purpose of making the corresponding zero interest loan pursuant to section 3 of P.L.2021, c.203, as amended by P.L.2021, c.328 in connection with the project costs of the project sponsor, to the extent the priority ranking or an insufficiency of funding prevents the department from meeting program demand, and for lead abatement projects ineligible for department loans under the Federal Clean Water Act and Safe Drinking Water Act.

8. Section 8 of P.L.2021, c.204 is amended to read as follows:

8. The New Jersey Infrastructure Bank is authorized to increase the individual amount of loan funds made available to project sponsors by the trust pursuant to P.L.1989, c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993, c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013, c.94, P.L.2014, c.26, P.L.2015, c.107, P.L.2016, c.31 as amended by P.L.2017, c.13, P.L.2017, c.142 as amended by P.L.2017, c.327, P.L.2018, c.84 as amended by P.L.2019, c.30, P.L.2019, c.192 as amended by P.L.2019, c.515, P.L.2020, c.48, as amended by P.L.2021, c.22, or P.L.2021, c.204, as amended by P.L.2021, c.316, provided that adequate savings are achieved, to compensate for a refunding of trust bonds issued to make loans authorized by the aforementioned acts.

9. Section 9 of P.L.2021, c.204 is amended to read as follows:

9. The expenditure of funds authorized pursuant to P.L.2021, c.204, as amended by P.L.2021, c.316, is subject to the provisions of P.L.1977, c.224 (C.58:12A-1 et al.), P.L.1985, c.329, P.L.1985, c.334 (C.58:11B-1 et seq.) as amended and supplemented by P.L.1997, c.224, P.L.1992, c.88, P.L.1989, c.181, P.L.1997, c.223, P.L.1997, c.225, P.L.1999, c.175, or P.L.2003, c.162, the rules and regulations adopted pursuant thereto, and the Federal Safe Drinking Water Act, as appropriate.

10. Section 10 of P.L.2021, c.204 is amended to read as follows:

10. a. There is appropriated to the New Jersey Infrastructure Bank, as needed to make short-term or temporary loans, from funds deposited in any account, including the "Wastewater Treatment Fund," the "1992 Wastewater Treatment Fund," the "Water Supply Fund," the "2003 Water Resources and Wastewater Treatment Trust Fund," the "Stormwater Management and Combined Sewer Overflow Abatement Fund," the "Clean Water State Revolving Fund," the "Drinking Water State Revolving Fund," or the funds transferred to the trust by the department pursuant to paragraph (21) of subsection a. of section 1 of P.L.2021, c.203, as amended by P.L.2021, c.328, as appropriate, and from any net earnings received from the investment and reinvestment of such deposits, an amount of up to $1 billion, to the extent funds are available, consisting of:

(1) The uncommitted balance currently on deposit as of July 1, 2021 in the special fund (hereinafter referred to as the "Interim Environmental Financing Program Fund") created and established by the trust for the short-term or temporary loan financing or refinancing program (hereinafter referred to as the "Interim Environmental Financing Program") authorized pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-9), which balance previously had been appropriated to the trust for such purpose pursuant to section 11 of P.L.2019, c.192, less any Interim Environmental Financing Program Fund amounts appropriated to the Department of Environmental Protection to supplement the sums appropriated from the Clean Water State Revolving Fund for clean water projects pursuant to the Federal Clean Water Act and from the Drinking Water State Revolving Fund for drinking water projects pursuant to the Federal Safe Drinking Water Act, provided that at no time shall funds committed pursuant to this section exceed funds required by the Department of Environmental Protection to meet long-term obligations; and

(2) such other amounts to be deposited in the Interim Environmental Financing Program Fund, in an aggregate amount that does not exceed at any time, the amount appropriated, provided that the amount so reappropriated and appropriated to the trust for deposit in the Interim Environmental Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Interim Environmental Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim environmental financing project priority list (hereinafter referred to as the "Interim Environmental Financing Program Project Priority List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

b. The Interim Environmental Financing Program Project Priority List shall be submitted to the Secretary of the Senate and the Clerk of the General

Assembly at least once each fiscal year. The Secretary of the Senate and the Clerk of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Environmental Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Environmental Financing Program Fund.

c. The trust may issue market rate interest short-term temporary loans for wastewater treatment and water supply projects on the Interim Environmental Financing Program Project Priority List for the reduction of lead in publicly-owned facilities otherwise ineligible to receive funding for that purpose pursuant to subsection a. of this section.

11. This act shall take effect immediately.

Approved December 21, 2021.

CHAPTER 317

AN ACT concerning certain utility service protections and supplementing Title 40A of the New Jersey Statutes and Title 48 of the Revised Statutes.

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

1. As used in sections 1 and 2 of P.L.2021, c.317:

"Local authority" means an authority, as defined in section 3 of P.L.1983, c.313 (C.40A:5A-3), or a water district established pursuant to R.S.40:62-96 et seq., that provides electric, sewer, or water service.

"Municipal utility" means a municipal public utility, as defined in N.J.S.40A:1-1, that provides electric, sewer, or water service.

"Public utility" means a public utility, as defined pursuant to R.S.48:2-13, that provides electric, gas, sewer, or water service.

"Residential customer" means a residential customer of record of a local authority, municipal utility, or a public utility or any residential tenant of a residence where the owner or any agent or other representative of the owner of the residence is a non-residential customer of record of a local authority, municipal utility, or public utility.

2. a. The provisions of Executive Order No. 246 of 2021 concerning a grace period for residential customers of certain utilities, including paragraphs two through four, nine through 14, 16 through 18, and 21, shall remain in effect for any local authority, municipal utility, and public utility that provides sewer or water service, and any municipal utility or rural electric cooperative that provides electric service, through March 15, 2022. Any residential customer sewer or water service discontinuance, and any discontinuance of electric service to a residential customer of a municipal utility or rural electric cooperative occurring between the end of the grace period established pursuant to Executive Order No. 246 of 2021 and the effective date of P.L.2021, c.317 (C.40A:5A-28 et al.) shall be nullified and service shall be restored immediately. Notwithstanding any other provisions of law, a local authority or municipal utility shall not place, sell, or enforce a lien on real property for the unpaid balance of any electric or water charges, or for the unpaid balance of any sewer charges not sold at tax sale as of January 1, 2022 until after the expiration of the extended grace period pursuant to this section. The extended grace period provided for in this section shall expire on March 15, 2022.

b. Notwithstanding any other provisions of law, prior to discontinuing service to a residential customer, or placing, selling, or enforcing a lien on real property owned by a residential customer for the unpaid balance of any water charges accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022, a local authority, municipal utility, or public utility shall offer the residential customer a utility service bill payment plan for the unpaid balance of any water charges accrued prior to March 15, 2022. The utility service bill payment plan shall have a minimum 12-month duration unless the residential customer requests a shorter payback period, and shall not require payment of a down payment, deposit, reconnection costs, interest, or penalties. The local authority, municipal utility, or public utility may offer residential customers a combined payment and payment forgiveness plan with a duration of less than 12 months that involves forgiveness of at least 50 percent of the outstanding principal upon the consent of the residential customer. If a residential customer does not agree to a utility service bill payment plan pursuant to this subsection within 30 days of being offered the plan by the local authority, municipal utility, or public utility, the local authority, municipal utility, or public utility may take appropriate enforcement action after March 15, 2022, including discontinuing service or placing, selling, or enforcing a lien, to the extent otherwise permitted by law.

c. Notwithstanding any other provisions of law, prior to discontinuing service to a residential customer, or placing, selling, or enforcing a lien on real property owned by a residential customer, for the unpaid balance of any electric charges accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022, a municipal electric utility or rural electric cooperative shall offer the residential customer a utility service bill payment plan for the unpaid balance of any electric charges accrued prior to March 15, 2022. The utility service bill payment plan shall have a minimum 12-month duration unless the residential customer requests a shorter payback period, and shall not require payment of a down payment, deposit, reconnection costs, interest, or penalties. The municipal electric utility or rural electric cooperative may offer residential customers a combined payment and payment forgiveness plan with a duration of less than 12 months that involves forgiveness of at least 50 percent of the outstanding principal upon the consent of the residential customer. If a residential customer does not agree to a utility service bill payment plan pursuant to this subsection within 30 days of being offered the plan by the municipal electric utility or rural electric cooperative, the municipal electric utility or rural electric cooperative may take appropriate enforcement action after March 15, 2022, including discontinuing service or placing, selling, or enforcing a lien, to the extent otherwise permitted by law.

d. Notwithstanding any other provisions of law, prior to discontinuing service to a residential customer for the unpaid balance of any electric or gas charges accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and the expiration date of Executive Order No. 246 of 2021, or in the case of a customer participating in the Winter Termination Program set forth in N.J.A.C.14:3-3A.5, any electric or gas charges accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022, a public utility shall offer the residential customer a utility service bill payment plan for the unpaid balance of any electric or gas charges accrued prior to the expiration date of Executive Order No. 246 of 2021 or, in the case of a customer participating in the Winter Termination Program set forth in N.J.A.C.14:3-3A.5, any electric or gas charges accrued prior to March 15, 2022. The utility service bill payment plan shall have a minimum 12-month duration unless the residential customer requests a shorter payback period, and shall not require payment of a down payment, deposit, reconnection costs, interest, or penalties. The public utility may offer residential customers a combined payment and payment forgiveness plan with a duration of less than 12

months that involves forgiveness of at least 50 percent of the outstanding principal upon the consent of the residential customer. If a residential customer does not agree to a utility service bill payment plan pursuant to this subsection within 30 days of being offered the plan by the public utility, the public utility may take appropriate enforcement action after the expiration of Executive Order 246 of 2021 or for customers participating in the Winter Termination Program set forth in N.J.A.C.14:3-3A.5 after March 15, 2022, including discontinuing service, to the extent otherwise permitted by law.

e. Notwithstanding any other provisions of law, prior to discontinuing service to a residential customer, or placing, selling, or enforcing a lien on real property owned by a residential customer, for the unpaid balance of any sewer charges accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022 that had not been sold at tax sale as of January 1, 2022, a local authority, municipal utility, or public utility shall offer a residential customer a utility service bill payment plan for the unpaid balance of any sewer charges accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022. The utility service bill payment plan shall have a minimum 12-month duration unless the residential customer requests a shorter payback period, and shall not require a down payment, deposit, reconnection costs, interest, or penalties. The local authority, municipal utility, or public utility may offer residential customers a combined payment and payment forgiveness plan with a duration of less than 12 months that involves forgiveness of at least 50 percent of the outstanding principal upon the consent of the residential customer. If a residential sewer customer does not agree to a utility service bill payment plan within 30 days of being offered a plan by the local authority, municipal utility, or public utility, the local authority, municipal utility, or public utility may take appropriate enforcement action after March 15, 2022, to the extent otherwise permitted by law.

f. Utility service bill payment plans offered by municipal utilities and local authorities pursuant to subsections b., c., and e. of this section shall be subject to the provisions of R.S.54:5-19 pertaining to installment agreements, except as otherwise provided in this section, and that a residential customer shall be offered a utility service bill payment plan for the payment of water, sewer, or electric charges that became delinquent notwithstanding whether a parcel of property is already subject to an installment payment plan pursuant to law.

g. No local authority, municipal utility, or public utility shall collect any interest, fee, or charge from residential customers for late or otherwise untimely payments of water charges that accrued between the declaration of

a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022. A local authority, municipality utility, or public utility may charge and collect fees, interest, and penalties for delinquent water charges that accrued prior to the declaration of a public health emergency in Executive Order No. 103 of 2020 and after March 15, 2022, as permitted by law.

h. No municipal electric utility or rural electric cooperative shall collect any interest, fee, or charge from residential customers for late or otherwise untimely payments of electric charges that accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022. A local authority, municipal utility, or public utility may charge and collect fees, interest, and penalties for delinquent electric charges that accrued prior to the declaration of a public health emergency in Executive Order No. 103 of 2020 and after March 15, 2022, as permitted by law.

i. No public utility shall collect any interest, fee, or charge from residential customers for late or otherwise untimely payments of electric or gas charges that accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and the expiration date of Executive Order No. 246 of 2021, or in the case of a customer participating in the Winter Termination Program set forth in N.J.A.C.14:3-3A.5, that accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and March 15, 2022. A public utility may charge and collect fees, interest, and penalties for delinquent electric or gas charges that accrued prior to the declaration of a public health emergency in Executive Order No. 103 of 2020 and after the expiration date of Executive Order No. 246 of 2021 or March 15, 2022, as applicable, as permitted by law.

j. No local authority, municipal utility, or public utility shall collect any interest, fee, or charge for late or otherwise untimely payments of sewer charges that accrued between January 1, 2022 and March 15, 2022, or that accrued between the declaration of a public health emergency in Executive Order No. 103 of 2020 and December 31, 2021 and had not been sold at tax sale as of January 1, 2022. A local authority, municipality utility, or public utility may charge and collect fees, interest and penalties for delinquent sewer charges that accrued prior to the declaration of a public health emergency in Executive Order No. 103 of 2020 and after March 15, 2022, as permitted by law.

C.40A:5A-28 Definitions relative to public utilities.

3. As used in sections 3 through 5 of P.L.2021, c.317 (C.40A:5A-28 to C.40A:5A-30):

"Board" means the Board of Public Utilities or any successor agency.

"Department" means the Department of Community Affairs.

"Local authority" means an authority, as defined in section 3 of P.L.1983, c.313 (C.40A:5A-3), or a water district established pursuant to R.S.40:62-96 et seq. that provides electric, sewer or water service.

"Municipal utility" means a municipal public utility, as defined in N.J.S.40A:1-1, that provides electric, sewer or water service.

"Program" means the Winter Termination Program established pursuant to section 4 of P.L.2021, c.317 (C.40A:5A-29).

"Residential customer" means a residential customer of record of a local authority, municipal utility, or rural electric cooperative, or any residential tenant of a residence where the owner or any agent or other representative of the owner of the residence is a non-residential customer of record of the local authority, municipal utility, or rural electric cooperative.

"Utility emergency" means any condition constituting a potential danger to life, health, or property requiring a local authority or a municipal utility to discontinue, interrupt, or maintain the discontinuation or interruption of electric, sewer or water service or that results in an unscheduled discontinuance or interruption in electric, sewer or water service.

C.40A:5A-29 Winter Termination Program, established.

4. a. Within 120 days of the effective date of P.L.2021, c.317 (C.40A:5A-28 et al.), the Department of Community Affairs shall establish a Winter Termination Program, which shall prohibit a local authority, municipal utility, or rural electric cooperative from discontinuing service during the period from November 15 through March 15, to a residential customer deemed qualified for program eligibility by the department. The program shall reflect the provisions of the Winter Termination Program for residential electric and gas public utility service, established by the board and published in the New Jersey Administrative Code, as appropriate for residential electric, sewer and water service. The program shall include:

b. In addition to categorical eligibility for customers receiving assistance under programs specified in the eligibility criteria in the board's Winter Termination Program for residential electric and gas service:

(1) categorical eligibility for any customer receiving assistance under the Low Income Household Water Assistance Program established pursuant to the Consolidated Appropriations Act of 2021, Pub.L.116-260, or any other State or local program that provides assistance specifically to help eligible customers pay electric, sewer or water bills;

(2) a process, in a form and manner to be determined by the department, which allows a residential customer to self-certify an inability to pay their local authority or municipal utility bill due to circumstances beyond the

customer's control, provided that the circumstances shall include, but not be limited to, unemployment, illness, medically related expenses, recent death of an immediate family member, and any other circumstances that might cause financial hardship; and

(3) a requirement that a local authority or municipal utility shall maintain or reconnect electric, sewer, or water service if a residential customer of a local authority, municipal utility, or rural electric cooperative can prove that they have submitted an application for assistance under the Low Income Household Water Assistance Program established pursuant to the Consolidated Appropriations Act of 2021, Pub.L.116–260 or any other State, local, or utility program that provides assistance or discounted rates specifically to help eligible customers pay electric, sewer or water bills, before such application has been approved, denied, or withdrawn, unless there is a utility emergency. Upon request, the residential customer shall provide the local authority, municipal utility, or rural electric cooperative with an update on the status of the application.

C.40A:5A-30 Rules, regulations.

5. The department, in consultation with the Board of Public Utilities, shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purpose of sections 3 and 4 of P.L.2021, c.317 (C.40A:5A-28 and C.40A:5A-29).

C.48:2-29.54 Definitions relative to public utilities.

6. As used in sections 6 through 8 of P.L.2021, c.317 (C.48:2-29.54 through C.48:2-29.56):

"Board" means the Board of Public Utilities or any successor agency.

"Public utility" means a public utility, as defined pursuant to R.S.48:2-13, that provides electric, gas, sewer, or water service.

"Residential customer" means a residential customer of record of a public utility or any residential tenant of a residence where the owner or any agent or other representative of the owner of the residence is a non-residential customer of record of the public utility.

"Utility emergency" means any condition constituting a potential danger to life, health, or property requiring a sewer or water public utility to discontinue, interrupt, or maintain the discontinuation or interruption of sewer or water service or that results in an unscheduled discontinuance or interruption in sewer or water service.

C.48:2-29.55 Winter Termination Program, inclusions.

7. Within 120 days of the effective date of P.L.2021, c.317 (C.40A:5A-28 et al.), the Board of Public Utilities shall include each sewer and water public utility in the board's Winter Termination Program as established by the board pursuant to rules and regulations adopted by the board and published in the New Jersey Administrative Code. In addition to the inclusion of sewer and water public utilities, the board shall establish within the Winter Termination Program:

a. categorical eligibility for any customer receiving assistance under the Low Income Household Water Assistance Program established pursuant to the Consolidated Appropriations Act of 2021, Pub.L.116-260 or any other State, local, or utility program that provides assistance specifically to help eligible customers pay sewer or water bills;

b. a process, in a form and manner to be determined by the board, which allows a residential customer to self-certify an inability to pay their public utility bill due to circumstances beyond the customer's control, provided that the circumstances shall include, but not be limited to, unemployment, illness, medically related expenses, recent death of an immediate family member, and any other circumstances that might cause financial hardship; and

c. a requirement that a water public utility shall maintain or reconnect water public utility service if the water public utility residential customer can prove they have submitted an application for assistance under the Low Income Household Water Assistance Program established pursuant to the Consolidated Appropriations Act of 2021, Pub.L.116–260 or any other State, local, or utility program that provides assistance or discounted rates specifically to help eligible customers pay sewer or water bills, before such application has been approved, denied, or withdrawn, unless there is a utility emergency. Upon request, the residential customer shall provide the public utility with an update on the status of the application.

C.48:2-29.56 Rules, regulations.

8. The board shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purpose of sections 6 and 7 of P.L.2021, c.317 (C.48:2-29.54 and C.48:2-29.55).

9. This act shall take effect immediately.

Approved December 21, 2021.